



# Journal of the House

State of Indiana

114th General Assembly

Second Regular Session

Twenty-second Meeting Day

Monday Morning

February 27, 2006

The House convened at 10:00 a.m. with Speaker Brian C. Bosma in the Chair.

The Pledge of Allegiance to the Flag was led by Representative Scott E. Reske.

The Speaker ordered the roll of the House to be called:

Aguilera	Koch
Austin	Kromkowski
Avery	Kuzman
Ayres	L. Lawson
Bardon	Lehe
Bauer	Leonard
Behning	J. Lutz
Bell	Mahern
Bischoff	Mays
Borders	McClain
Borror	Messer
C. Bottorff	Micon
Bright	Moses ☐
C. Brown	Murphy
T. Brown	Neese
Buck	Noe
Budak	Orentlicher
Buell	Oxley
Burton	Pelath
Cheney	Pflum
Cherry	Pierce
Cochran	Pond
Crawford	Porter
Crooks	Reske
Crouch	Richardson
Davis	Ripley
Day	Robertson
Denbo	Ruppel
Dickinson	Saunders
Dobis	J. Smith
Dodge	V. Smith
Duncan	Stevenson
Dvorak	Stilwell
Espich	Stutzman
Foley ☐	Summers ☐
Friend	Thomas
Frizzell	Thompson
Fry	Tincher
GiaQuinta ☐	Torr
Goodin	Turner
Grubb	Tyler
Gutwein	Ulmer
E. Harris	VanHaften
T. Harris	Walorski
Heim	Welch
Hinkle	Whetstone
Hoffman	Wolkins ☐
Hoy	Woodruff
Kersey	Yount
Klinker	Mr. Speaker

Roll Call 246: 95 present; 5 excused. The Speaker announced a quorum in attendance. [NOTE: ☐ indicates those who were excused.]

## RESOLUTIONS ON FIRST READING

### House Resolution 28

Representative Reske introduced House Resolution 28:

A HOUSE RESOLUTION memorializing Private First Class Deryk L. Hallal.

*Whereas, Private First Class Deryk L. Hallal, Indianapolis, Indiana, was killed on April 6, 2004, by hostile fire in Anbar province, Iraq;*

*Whereas, At the time of his death, Private First Class Hallal was serving as a rifleman;*

*Whereas, Private First Class Hallal was caught in the open and under intense enemy rocket-propelled grenade, machine gun, and small arms fire;*

*Whereas, Bravely and without hesitation, Private First Class Hallal returned fire, eliminating three insurgents and allowing squad members to position themselves for an assault against the enemy;*

*Whereas, Under intense enemy fire, Private First Class Hallal bravely led the attack to clear an enemy emplacement;*

*Whereas, The actions of Private First Class Hallal saved the lives of the members of his squad;*

*Whereas, Private First Class Hallal was awarded the Bronze Star Medal in recognition of his valor;*

*Whereas, Private First Class Hallal was assigned to 2nd Battalion, 4th Marines, 1st Marine Division, I Marine Expeditionary Force, Camp Pendleton, California;*

*Whereas, The family and friends of Private First Class Hallal can take comfort in the knowledge that he believed in what he was doing and that he is truly an American hero; and*

*Whereas, Throughout history brave men and women like Private First Class Hallal have made the ultimate sacrifice in defense of freedom throughout the world; without men and women like Private First Class Hallal freedom could not survive: Therefore,*

*Be it resolved by the House of Representatives of the General Assembly of the State of Indiana:*

SECTION 1. That the Indiana House of Representatives pays tribute to an outstanding American who gave his life in defense of freedom. Private First Class Deryk L. Hallal was killed fighting to preserve freedom. Private First Class Hallal died doing what he believed in and defending the lives of his fellow Marines. The Indiana House of Representatives extends its deepest sympathy to his family.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to the family of Private First Class Deryk L. Hallal.

The resolution was read a first time and adopted by voice vote.

The House recessed for a ceremony in which the United States Marine Corps presented the Bronze Star to the family of Private First Class Deryk Hallal.

The House reconvened with the Speaker in the Chair.

Representative Foley, who had been excused, was present.

## ENGROSSED SENATE BILLS ON THIRD READING

### Engrossed Senate Bill 75

Representative Borrer called down Engrossed Senate Bill 75 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning veteran's affairs.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 247: yeas 94, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

## ENGROSSED SENATE BILLS ON SECOND READING

The following bills were called down by their respective sponsors, were read a second time by title, and, there being no amendments, were ordered engrossed: Engrossed Senate Bills 33, 36, 39, 56, 81, 94, 151, 192, 193, 201, 229, 264, 275, 300, 338, 342, and 369.

Representatives Summers and Wolkins, who had been excused, were present. Representative Bauer and Reske were excused.

## ENGROSSED SENATE BILLS ON THIRD READING

### Engrossed Senate Bill 384

Representative Saunders called down Engrossed Senate Bill 384 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning financial institutions.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass? Representatives Borrer, Espich, and Whetstone were excused from voting, pursuant to House Rule 46.

Roll Call 248: yeas 90, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

### Engrossed Senate Bill 379

Representative Heim called down Engrossed Senate Bill 379 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 249: yeas 93, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

### Engrossed Senate Bill 373

Representative Foley called down Engrossed Senate Bill 373 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning human services.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 250: yeas 93, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

### Engrossed Senate Bill 354

Representative Ulmer called down Engrossed Senate Bill 354 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning natural and cultural resources.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 251: yeas 62, nays 30. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

### Engrossed Senate Bill 339

Representative Duncan called down Engrossed Senate Bill 339 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 252: yeas 92, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

### Engrossed Senate Bill 332

Representative Buell called down Engrossed Senate Bill 332 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning pensions.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 253: yeas 91, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

Representative Reske, who had been excused, was present. Representatives Kuzman and Whetstone were excused.

### Engrossed Senate Bill 314

Representative Friend called down Engrossed Senate Bill 314 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning natural and cultural resources and agriculture and animals.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 254: yeas 41, nays 53. The bill was defeated.

### Engrossed Senate Bill 310

Representative Behning called down Engrossed Senate Bill 310 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning education.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 255: yeas 92, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

### Engrossed Senate Bill 285

Representative Ruppel called down Engrossed Senate Bill 285 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning public safety.

The bill was read a third time by sections and placed upon its passage.

### HOUSE MOTION (Amendment 285-3)

Mr. Speaker: I move that Engrossed Senate Bill 285 be recommitted to a Committee of One, its sponsor, with specific instructions to amend as follows:

Page 12, line 38, delete "Money from the following sources may be used" and insert "**The fiscal body of a county that establishes a county emergency operations center may use money from any available source**".

Page 12, line 39, delete "a" and insert "**the**".

Page 12, line 42, delete ":" and insert ".".

Page 13, delete lines 1 through 3.

Page 18, delete lines 37 through 42.

Delete pages 19 through 23.

Renumber all SECTIONS consecutively.

(Reference is to ESB 285 as reprinted February 17, 2006.)

RUPPEL

### HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 285 be made a special order of business for 1:30 p.m.

STILWELL

Motion prevailed. The bill was made a special order of business.

Representative Whetstone, who had been excused, was present.

### Engrossed Senate Bill 283

Representative Bischoff called down Engrossed Senate Bill 283 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 256: yeas 94, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

### Engrossed Senate Bill 277

Representative C. Brown called down Engrossed Senate Bill 277 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 257: yeas 82, nays 11. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

### Engrossed Senate Bill 269

Representative Duncan called down Engrossed Senate Bill 269 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 258: yeas 81, nays 10. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

Representative Kuzman, who had been excused, was present.

### Engrossed Senate Bill 258

Representative Espich called down Engrossed Senate Bill 258 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration and taxation.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 259: yeas 91, nays 4. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

The House recessed until the fall of the gavel.

### RECESS

The House reconvened at 3:40 p.m. with the Speaker in the Chair.

Representative Bauer, who had been excused, was present. Representative Wolkins was excused for the rest of the day.

### MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Senate Concurrent Resolutions 43 and 44 and the same are herewith transmitted to the House for further action.

MARY C. MENDEL  
Principal Secretary of the Senate

### MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Senate Concurrent Resolution 25 and the same is herewith transmitted to the House for further action.

MARY C. MENDEL  
Principal Secretary of the Senate

### RESOLUTIONS ON FIRST READING

#### House Resolution 29

Representative Pelath introduced House Resolution 29:

A HOUSE RESOLUTION memorializing Norman E. Pahs.

*Whereas, Norman E. Pahs was born on April 10, 1917, in Michigan City to Henry Pahs and Mary Foldenauer Pahs;*

*Whereas, Norman E. Pahs married Lucille Porsoska on September 13, 1941;*

*Whereas, Norman E. Pahs was one of the premier elected leaders in LaPorte County history, serving as a county commissioner for eight years, a Coolspring Township trustee for 20 years, and a Coolspring Township Advisory Board member until his death;*

*Whereas, Norman E. Pahs worked as a foreman at Gerwin Industries, served as president of the St. Joseph Young Men's Society and president of the Polish Business and Professional Club, and he was a long-standing and dedicated member of the Coolspring Democratic Club, the Coolspring Farm Bureau, the LaPorte County Excise Board, and the Queen of All Saints Church;*

*Whereas, Norman E. Pahs received a Sagamore of the Wabash Award from Indiana Governor Evan Bayh in 1994;*

*Whereas, Norman E. Pahs was a legendary gardener who welcomed countless friends, family, and visitors into his home along Johnson Road in Coolspring Township;*

*Whereas, Norman E. Pahs was beloved and respected by thousands of LaPorte County citizens for his personal integrity, characteristic humility, and unwavering dedication to the interests of working people;*

*Whereas, Norman E. Pahs is survived by one sister, Mary Tuholski; three daughters, Patricia, Norma, and Mary Ellen; ten grandchildren; and several great-grandchildren;*

*Whereas, Norman E. Pahs was preceded in death by his wife, Lucille; one daughter, Susanne; brothers, Henry, Louis, Robert, and Edward; one sister, Evelyn; and one granddaughter, Maureen Murphy; and*

*Whereas, As a strong and trusted leader, Norman E. Pahs always put the needs and wishes of the people above all other*

considerations: Therefore,

*Be it resolved by the House of Representatives  
of the General Assembly of the State of Indiana:*

SECTION 1. That the Indiana House of Representatives wishes to honor the great life, numerous good works, and lasting memory of Norman E. Pahs.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to the family of Norman E. Pahs.

The resolution was read a first time and adopted by voice vote.

### House Resolution 30

Representative Pelath introduced House Resolution 30:

A HOUSE RESOLUTION memorializing Larry F. Naifeh.

*Whereas, Larry F. Naifeh was born to Frank Naifeh and Geneva Holland Naifeh on September 15, 1947;*

*Whereas, Larry F. Naifeh married Deirdre "Dee" Breihan on December 23, 1967;*

*Whereas, After 23 years of distinguished service with the United States Marine Corps, Larry F. Naifeh retired in 1991 as a major;*

*Whereas, Larry F. Naifeh served his country in Vietnam, the Gulf War, and at many stations around the globe;*

*Whereas, Larry F. Naifeh was a member of Countryside Christian Church, the American Association of Christian Counselors, the Indiana State Teacher's Association, the John Franklin Miller American Legion Post 37, and the Veterans of Foreign Wars Post 2536;*

*Whereas, Larry F. Naifeh was revered as the senior instructor and director of the Michigan City Area Schools Junior R.O.T.C. program;*

*Whereas, Larry F. Naifeh made a positive and lasting difference in the lives of countless young people throughout LaPorte County as he instilled in them the basic values of integrity, responsibility, and leadership;*

*Whereas, Larry F. Naifeh was a man who consistently demonstrated the highest morals and ethics while setting an example to be followed by others;*

*Whereas, Larry F. Naifeh is survived by his wife Dee; his son, U.S. Army Major Michael T. Naifeh; his daughter-in-law, Viktoria; his grandchildren, Matthew, Alexander, and Ksenia; and two sisters, Brenda and Laura;*

*Whereas, Larry F. Naifeh was preceded in death by his son, U.S. Army Private First Class Matthew T. Naifeh, who was killed while serving his country on July 16, 2002; and*

*Whereas, The death of Larry F. Naifeh is a great loss to the state of Indiana, and he will be missed by many: Therefore,*

*Be it resolved by the House of Representatives  
of the General Assembly of the State of Indiana:*

SECTION 1. That the Indiana House of Representatives wishes to express its sympathy to the family of Larry F. Naifeh and to honor the good works, dedicated service, and extraordinary life of this wonderful man.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to the family of Larry F. Naifeh.

The resolution was read a first time and adopted by voice vote.

### Senate Concurrent Resolution 43

The Speaker handed down Senate Concurrent Resolution 43, sponsored by Representative Burton:

A CONCURRENT RESOLUTION recognizing the Greenwood Fire Department Honor Guard.

*Whereas, The Greenwood Fire Department Honor Guard was formed in 1997 and originally consisted of six members who wanted to represent the fire department and the city with the highest degree of honor;*

*Whereas, The Honor Guard currently consists of twelve members, Commander Nat Ridge, Assistant Commander Joshua Meadows, Kevin Johnson, Ed Daugherty, Adam Arkins, Adam Flynn, Thaddeus Ridge, Robert Stecher, Randy Travis, Michael Jackson, Devon Bancroft, and Bryan Johns;*

*Whereas, The primary function of the Honor Guard is to perform at the funeral services of fallen members of the fire department and police department or civic leaders and to present and promote the dignity and honor of the United States flag and Indiana flag at various events and functions around the area;*

*Whereas, The Greenwood Fire Department Honor Guard has competed in the FDIC National Fire Department Honor Guard competition for four years, taking the national title in 2003 and 2005;*

*Whereas, The Honor Guard also shows an active interest in the community through involvement with the Cub Scouts, presenting the colors at local Sertoma, Rotary, and Moose events as well as high school sporting events and fund raisers;*

*Whereas, The Honor Guard led the Epsilon Sigma Alpha Walk of Heroes in 2002, the annual St. Patrick's Day Parade in Indianapolis in 2004, the Babe Ruth World Series Parade in 2002, and presented the Colors for the International Convention of Sertoma in 2003 and the National Fallen Firefighter's Memorial in Washington, D.C. in 2002; and*

*Whereas, The Greenwood Fire Department Honor Guard is an excellent representative of the Greenwood community and the state of Indiana: Therefore,*

*Be it resolved by the Senate  
of the General Assembly of the State of Indiana,  
the House of Representatives concurring:*

SECTION 1. That the Indiana General Assembly recognizes the dedication to duty, honor, and country displayed by the members of the Greenwood Fire Department Honor Guard and thanks the members for their hard work.

SECTION 2. That copies of this resolution be transmitted by the Secretary of the Senate to the members of the Greenwood Fire Department Honor Guard, Fire Chief Steve Dhondt, Mayor Charles Henderson, and Governor Mitch Daniels.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution.

### Senate Concurrent Resolution 44

The Speaker handed down Senate Concurrent Resolution 44, sponsored by Representatives Crouch and Hoy:

A CONCURRENT RESOLUTION recognizing the International Brotherhood of Electrical Workers (IBEW) for their dedicated service to the communities in which they serve.

*Whereas, During severe weather and natural disasters, the government urges residents to remain in a safe place. At the same time, electricians are out in the elements working to restore power and reduce the dangers associated with inclement weather, such as severed power lines;*

*Whereas, Electrical power is one of the most essential services to everyday life, but it is particularly crucial during disaster recovery efforts;*

*Whereas, IBEW electricians frequently work in hazardous situations in order to restore power in adverse conditions, enabling rescue attempts during disaster recovery efforts; and*

*Whereas, The electricians of the IBEW deserve recognition and gratitude for the tremendous risk they assume in order to serve Indiana communities during times of distress: Therefore,*

*Be it resolved by the Senate  
of the General Assembly of the State of Indiana,  
the House of Representatives concurring:*

SECTION 1. That the Indiana General Assembly recognizes the International Brotherhood of Electrical Workers (IBEW) and their diligent efforts to restore power for the citizens of Indiana in hazardous conditions.

SECTION 2. The Secretary of the Senate is hereby directed to transmit a copy of this resolution to Edwin D. Hill, IBEW International President; Mark H. Ayers, IBEW Construction and Maintenance Director; and William Cooper, retired Trade Association Executive Manager associated with the National Electrical Contractors Association, Inc.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution.

By consent the House did not handle Engrossed Senate Bill 285, which had been made a special order of business on third reading. The House proceeded to Engrossed Senate Bills on second reading.

## ENGROSSED SENATE BILLS ON SECOND READING

### Engrossed Senate Joint Resolution 2

Representative Richardson called down Engrossed Senate Joint Resolution 2 for second reading. The joint resolution was read a second time by title.

#### HOUSE MOTION (Amendment 2-1)

Mr. Speaker: I move that Engrossed Senate Joint Resolution 2 be amended to read as follows:

Page 2, line 5, after "is" insert ":

**(A) on active military duty or is an employee of the United States government; and**

**(B)".**

(Reference is to SJR 2 as printed February 17, 2006.)

MAHERN

Upon request of Representatives Mahern and Stilwell, the Speaker ordered the roll of the House to be called. Roll Call 260: yeas 45, nays 51. Motion failed. The joint resolution was ordered engrossed.

### Engrossed Senate Bill 382

Representative Crouch called down Engrossed Senate Bill 382 for second reading. The bill was read a second time by title.

#### HOUSE MOTION (Amendment 382-1)

Mr. Speaker: I move that Engrossed Senate Bill 382 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 8-22-3.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2006]: Sec. 1. This chapter applies to the following:

- (1) Each county having a consolidated city.
- (2) Each city having a population of more than ninety thousand (90,000) but less than one hundred five thousand (105,000).
- (3) Each county having a population of more than one hundred five thousand (105,000) but less than one hundred ten thousand (110,000).
- (4) Each county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000).
- (5) Each county having a population of more than one hundred seventy thousand (170,000) but less than one hundred eighty thousand (180,000).
- (6) Each county having a population of more than one hundred eighteen thousand (118,000) but less than one hundred twenty thousand (120,000).**

SECTION 2. IC 8-22-3.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2006]: Sec. 2. As used in this chapter, "commission" refers to the following:

- (1) With respect to a county having a consolidated city, the metropolitan development commission acting as the redevelopment commission of the consolidated city, subject to IC 36-3-4-23.
- (2) With respect to a city described in section 1(2) of this chapter, the board of the airport authority for the city.

(3) With respect to a county described in section 1(3) of this chapter, the board of an airport authority that is jointly established by the county and a municipality under IC 8-22-3.

(4) With respect to a county described in section 1(4) or 1(5) of this chapter, the board of an airport authority that is jointly established by the county and a municipality under IC 8-22-3.

**(5) With respect to a county described in section 1(6) of this chapter, the board of an airport authority that is established by the county.**

SECTION 3. IC 8-22-3.5-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2006]: Sec. 2.5. Notwithstanding IC 8-22-1-6, as used in this chapter, "eligible entity" refers to any of the following:

- (1) A consolidated city.
- (2) A city described in section 1(2) of this chapter.
- (3) A city in a county described in section 1(3) of this chapter.
- (4) A county described in section 1(4) of this chapter.
- (5) A city located in a county described in section 1(4) of this chapter.
- (6) A county described in section 1(5) of this chapter.
- (7) A city located in a county described in section 1(5) of this chapter.
- (8) A county described in section 1(6) of this chapter."**

Page 1, line 11, after "1(4)," delete "or".

Page 1, line 11, after "1(5)" insert ", **or 1(6)**".

Page 2, line 25, after "1(4)," strike "or".

Page 2, line 25, after "1(5)" insert ", **or 1(6)**".

Page 3, line 12, after "1(4)" insert ",."

Page 3, line 12, strike "or".

Page 3, line 12, after "1(5)" insert ", **or 1(6)**".

Page 8, between lines 21 and 22, begin a new paragraph and insert:  
"SECTION 9. IC 8-22-3.5-14, AS AMENDED BY P.L.4-2005, SECTION 117, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2006]: Sec. 14. (a) This section applies only to an airport development zone that is in a:

- (1) city described in section 1(2) of this chapter; or
- (2) county described in section 1(3), ~~or~~ 1(4), **or 1(6)** of this chapter.

(b) Notwithstanding any other law, a business or an employee of a business that is located in an airport development zone is entitled to the benefits provided by the following statutes, as if the business were located in an enterprise zone:

- (1) IC 6-1.1-20.8.
- (2) IC 6-3-2-8.
- (3) IC 6-3-3-10.
- (4) IC 6-3.1-7.
- (5) IC 6-3.1-9.
- (6) IC 6-3.1-10-6.

(c) Before June 1 of each year, a business described in subsection (b) must pay a fee equal to the amount of the fee that is required for enterprise zone businesses under IC 5-28-15-5(a)(4)(A). However, notwithstanding IC 5-28-15-5(a)(4)(A), the fee shall be paid into the debt service fund established under section 9(e)(2) of this chapter. If the commission determines that a business has failed to pay the fee required by this subsection, the business is not eligible for any of the benefits described in subsection (b).

(d) A business that receives any of the benefits described in subsection (b) must use all of those benefits, except for the amount of the fee required by subsection (c), for its property or employees in the airport development zone and to assist the commission. If the commission determines that a business has failed to use its benefits in the manner required by this subsection, the business is not eligible for any of the benefits described in subsection (b).

(e) If the commission determines that a business has failed to pay the fee required by subsection (c) or has failed to use benefits in the manner required by subsection (d), the commission shall provide written notice of the determination to the department of state revenue, the department of local government finance, and the county auditor."

Renumber all SECTIONS consecutively.

(Reference is to ESB 382 as printed February 24, 2006.)

TYLER

Motion prevailed. The bill was ordered engrossed.

**Engrossed Senate Bill 374**

Representative T. Brown called down Engrossed Senate Bill 374 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

**Engrossed Senate Bill 370**

Representative Torr called down Engrossed Senate Bill 370 for second reading. The bill was read a second time by title.

HOUSE MOTION  
(Amendment 370-2)

Mr. Speaker: I move that Engrossed Senate Bill 370 be amended to read as follows:

Page 15, line 4, after "based" insert "**service**".

Page 15, line 5, after "(D)" delete "A" and insert "**For a regional workforce area in which employees are represented by labor organizations, a**".

Page 15, line 5, delete "organization." and insert "**organization, with the member being nominated by the local labor federations.**".

(Reference is to ESB 370 as printed February 22, 2006.)

BUDAK

Motion prevailed.

HOUSE MOTION  
(Amendment 370-1)

Mr. Speaker: I move that Engrossed Senate Bill 370 be amended to read as follows:

Page 3, delete lines 27 through 39.

Page 8, line 25, reset in roman "(a)".

Page 8, line 26, delete "The" and insert "**Subject to subsection (b), the**".

Page 9, between lines 39 and 40, begin a new paragraph and insert: "**(b) The state superintendent of public instruction or the superintendent's designee serves as a member of the state workforce innovation council.**".

Renumber all SECTIONS consecutively.

(Reference is to ESB 370 as printed February 22, 2006.)

BORDERS

Upon request of Representatives Borders and Friend, the Speaker ordered the roll of the House to be called. Roll Call 261: yeas 90, nays 1. Motion prevailed.

HOUSE MOTION  
(Amendment 370-3)

Mr. Speaker: I move that Engrossed Senate Bill 370 be amended to read as follows:

Page 10, line 9, delete "twenty-one (21)" and insert "**half of the**".

Page 10, line 10, delete "of" and insert "**appointed to**".

(Reference is to ESB 370 as printed February 22, 2006.)

LEONARD

Motion prevailed.

HOUSE MOTION  
(Amendment 370-5)

Mr. Speaker: I move that Engrossed Senate Bill 370 be amended to read as follows:

Page 5, line 3, delete "for-profit or".

(Reference is to ESB 370 as printed February 22, 2006.)

CHENEY

Upon request of Representatives Cheney and Stilwell, the Speaker ordered the roll of the House to be called. Roll Call 262: yeas 44, nays 50. Motion failed.

HOUSE MOTION  
(Amendment 370-6)

Mr. Speaker: I move that Engrossed Senate Bill 370 be amended to read as follows:

Page 4, reset in roman lines 36 through 41.

Page 5, reset in roman lines 11 through 12.

Page 5, line 13, reset in roman "the unemployment insurance program."

(Reference is to ESB 370 as printed February 22, 2006.)

CHENEY

Upon request of Representatives Cheney and Stilwell, the Speaker ordered the roll of the House to be called. Roll Call 263: yeas 46, nays 50. Motion failed.

HOUSE MOTION  
(Amendment 370-7)

Mr. Speaker: I move that Engrossed Senate Bill 370 be amended to read as follows:

Page 8, line 25, reset in roman "(a)".

Page 9, between lines 39 and 40, begin a new paragraph and insert:

**"(b) The membership of the state workforce innovation council must include at least three (3) representatives of labor organizations who have been nominated by the Indiana State AFL-CIO."**

Page 14, line 36, delete "'sixteen (16)" and insert "**seventeen (17)**".

Page 14, line 42, delete "Four (4)" and insert "**Five (5)**".

Page 14, line 42, delete "one (1) from each of" and insert "**as specified in**".

Page 15, line 2, delete "An" and insert "**One (1) representative from an**".

Page 15, line 3, delete "A" and insert "**One (1) representative from a**".

Page 15, line 4, delete "A" and insert "**One (1) representative from a**".

Page 15, line 5, delete "A" and insert "**Two (2) representatives of**".

Page 15, line 5, delete "organization." and insert "**organizations who have been nominated by local AFL-CIO central labor councils.**".

Page 15, line 7, delete "member" and insert "**members**".

Page 15, line 8, delete "a representative" and insert "**representatives**".

Page 15, delete lines 15 through 16, begin a new line block indented and insert:

**"area shall select and appoint one (1) member from:**

**(A) any of the four (4) categories listed in subsection (b)(2); and**

**(B) the category listed in subsection (b)(2)(D)."**

Page 16, line 13, delete "sixteen (16)" and insert "**seventeen (17)**".

Page 16, line 17, delete "sixteen (16)" and insert "**seventeen (17)**".

(Reference is to ESB 370 as printed February 22, 2006.)

CHENEY

Upon request of Representatives Cheney and Stilwell, the Speaker ordered the roll of the House to be called. Roll Call 264: yeas 46, nays 50. Motion failed. The bill was ordered engrossed.

**Engrossed Senate Bill 362**

Representative Turner called down Engrossed Senate Bill 362 for second reading. The bill was read a second time by title.

HOUSE MOTION  
(Amendment 362-2)

Mr. Speaker: I move that Engrossed Senate Bill 362 be amended to read as follows:

Page 4, line 39, delete "thirty" and insert "**forty-five**".

Page 4, line 40, delete "(30)" and insert "**(45)**".

Page 5, line 42, delete "thirty (30)" and insert "**forty-five (45)**".

Page 12, line 16, reset in roman "However, if".

Page 12, line 16, after "if" insert "**the department determines that:**

**(1)".**

Page 12, line 16, reset in roman "at the".

Page 12, reset in roman lines 17 through 19.

Page 12, line 20, reset in roman "date the judgment was filed".

Page 12, line 20, after "filed" delete "," and insert "; **and**

**(2) the sheriff's electronic data base regarding tax warrants is compatible with the department's data base;"**.

Page 12, line 20, beginning with "the sheriff" begin a new line blocked left.

Page 12, line 21, reset in roman "the sheriff may keep the tax warrant and".

Page 12, line 21, reset in roman "continue collections."  
(Reference is to ESB 362 as printed February 24, 2006.)

TURNER

Motion prevailed.

HOUSE MOTION  
(Amendment 362-1)

Mr. Speaker: I move that Engrossed Senate Bill 362 be amended to read as follows:

Page 2, line 22, delete "The" and insert **"Except as provided in subsection (k), the"**.

Page 2, line 26, delete "notify a retail merchant who is delinquent" and insert **"do the following"**:

**(1) Make a proposed assessment under IC 6-8.1-5 against the retail merchant in the amount of the sales and use taxes that the retail merchant is delinquent in remitting to the department.**

**(2) Notify the retail merchant that the department will not renew the retail merchant's registered retail merchant's certificate."**

Page 2, delete lines 27 through 28.

Page 3, between lines 16 and 17, begin a new paragraph and insert: **"(k) The department may renew a registered retail merchant's certificate if the retail merchant complies with the following requirements:**

**(1) The retail merchant does either of the following:**

**(A) Commences settlement negotiations with the department with regard to the proposed assessment made under subsection (g).**

**(B) Files a written protest of the proposed assessment made under subsection (g).**

**(2) The retail merchant applies within ten (10) days of receiving the notice required under subsection (g) for a renewal of the retail merchant's registered retail merchant's certificate on a form prescribed by the department.**

**The department shall rule on the retail merchant's application at least thirty (30) days before the date on which the retail merchant's registered retail merchant certificate expires.**

**(l) A retail merchant whose application for a renewed registered retail merchant's certificate is denied by the department under subsection (k) may petition the tax court to set aside the department's denial of the retail merchant's application. A petition filed under this subsection is subject to the requirements of IC 33-26-6-2(e). The tax court shall conduct a hearing and rule on the petition before the date on which the retail merchant's registered retail merchant certificate expires.**

**(m) After a hearing on a petition filed under subsection (l), the tax court may set aside the department's denial of the retail merchant's application for a renewed registered retail merchant's certificate if the tax court finds that:**

**(1) the issues raised by the petitioner are substantial;**

**(2) the petitioner has a reasonable opportunity to prevail in any original tax appeal that might arise from the department's proposed assessment of the petitioner's sales and use tax liability; and**

**(3) the equitable considerations favoring the setting aside of the department's denial of the petitioner's application for a renewed registered retail merchant's certificate outweigh the state's interests in refusing to renew the taxpayer's registered retail merchant certificate."**

Page 14, between lines 9 and 10, begin a new paragraph and insert: **"SECTION 12. IC 33-26-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]:** Sec. 2. (a) A taxpayer who wishes to initiate an original tax appeal must file a petition in the tax court to set aside the final determination of the department of state revenue or the Indiana board of tax review. If a taxpayer fails to comply with any statutory requirement for the initiation of an original tax appeal, the tax court does not have jurisdiction to hear the appeal.

**(b) A taxpayer who wishes to enjoin the collection of a tax pending the original tax appeal must file a petition with the tax court to enjoin**

**the collection of the tax. The petition must set forth a summary of:**

**(1) the issues that the petitioner will raise in the original tax appeal; and**

**(2) the equitable considerations for which the tax court should order the collection of the tax to be enjoined.**

**(c) After a hearing on the petition filed under subsection (b), the tax court may enjoin the collection of the tax pending the original tax appeal, if the tax court finds that:**

**(1) the issues raised by the original tax appeal are substantial;**

**(2) the petitioner has a reasonable opportunity to prevail in the original tax appeal; and**

**(3) the equitable considerations favoring the enjoining of the collection of the tax outweigh the state's interests in collecting the tax pending the original tax appeal.**

**(d) This section does not apply to a final determination of the department of state revenue under IC 4-32 other than a final determination concerning the gaming card excise tax established under IC 4-32-15.**

**(e) This subsection applies to a taxpayer who petitions the tax court under IC 6-2.5-8-1(l) to set aside a denial of an application to renew a registered retail merchant's certificate. The petition must set forth a summary of:**

**(1) the issues that the petitioner will raise in contesting the department of state revenue's underlying proposed assessment of the petitioner's sales and use tax liability; and**

**(2) the equitable considerations for which the tax court should order the department of state revenue to renew the retail merchant's registered retail merchant's certificate."**

Renumber all SECTIONS consecutively.

(Reference is to ESB 362 as printed February 24, 2006.)

AVERY

Upon request of Representatives Avery and Stilwell, the Speaker ordered the roll of the House to be called. Roll Call 265: yeas 46, nays 47. Motion failed. The bill was ordered engrossed.

### Engrossed Senate Bill 359

Representative Messer called down Engrossed Senate Bill 359 for second reading. The bill was read a second time by title.

HOUSE MOTION  
(Amendment 359-7)

Mr. Speaker: I move that Engrossed Bill 359 be amended to read as follows:

Page 3, after line 42, begin a new paragraph and insert:

**"SECTION 2. IC 4-13-18 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]:**

#### **Chapter 18. Drug Testing of Employees of Public Works Contractors**

**Sec. 1. This chapter applies only to a public works contract awarded after June 30, 2006.**

**Sec. 2. As used in this chapter, "bid" includes a quotation.**

**Sec. 3. (a) As used in this chapter, "contractor" refers to a person who:**

**(1) submits a bid to do work under a public works contract; or**

**(2) does any work under a public works contract.**

**(b) The term includes a subcontractor of a contractor.**

**Sec. 4. As used in this chapter, "public works contract" refers to:**

**(1) a public works contract covered by IC 4-13.6;**

**(2) a public works contract covered by IC 5-16 and entered into by a state agency; or**

**(3) a state highway contract covered by IC 8-23-9;**

**when the estimated cost of the public works project is one hundred fifty thousand dollars (\$150,000) or more.**

**Sec. 5. (a) A solicitation for a public works contract must require each contractor that submits a bid for the work to submit with the bid a written plan for a program to test the contractor's employees for drugs.**

**(b) A public works contract may not be awarded to a contractor whose bid does not include a written plan for an employee drug testing program that complies with this chapter.**

**Sec. 6. (a) A contractor's employee drug testing program must satisfy all of the following:**

- (1) Each of the contractor's employees must be subject to a drug test at least one (1) time each year.
- (2) Subject to subdivision (1), the contractor's employees must be tested randomly. At least two percent (2%) of the contractor's employees must be randomly selected each month for testing.
- (3) The program must contain at least a five (5) drug panel that tests for the following:
  - (A) Amphetamines.
  - (B) Cocaine.
  - (C) Opiates (92000 ng/ml).
  - (D) PCP.
  - (E) THC.
- (4) The program must impose progressive discipline on an employee who fails a drug test. The discipline must have at least the following progression:

- (A) After the first positive test, an employee must be:
  - (i) suspended from work for thirty (30) days;
  - (ii) directed to a program of treatment or rehabilitation; and
  - (iii) subject to unannounced drug testing for one (1) year, beginning the day the employee returns to work.
- (B) After a second positive test, an employee must be:
  - (i) suspended from work for ninety (90) days;
  - (ii) directed to a program of treatment or rehabilitation; and
  - (iii) subject to unannounced drug testing for one (1) year, beginning the day the employee returns to work.
- (C) After a third or subsequent positive test, an employee must be:
  - (i) suspended from work for one (1) year;
  - (ii) directed to a program of treatment or rehabilitation; and
  - (iii) subject to unannounced drug testing for one (1) year, beginning the day the employee returns to work.

The program may require dismissal of the employee after any positive drug test or other discipline more severe than is described in this subdivision.

**(b) An employer complies with the requirement of subsection (a) to direct an employee to a program of treatment or rehabilitation if the employer does either of the following:**

- (1) Advises the employee of any program of treatment or rehabilitation covered by insurance provided by the employer.
- (2) If the employer does not provide insurance that covers drug treatment or rehabilitation programs, the employer advises the employee of agencies known to the employer that provide drug treatment or rehabilitation programs.

**Sec. 7. (a) The public works contract must provide for the following:**

- (1) That the contractor implement the employee drug testing program described in the contractor's plan.
- (2) Cancellation of the contract by the agency awarding the contract if the contractor:
  - (A) fails to implement its employee drug testing program during the term of the contract;
  - (B) fails to provide information regarding implementation of the contractor's employee drug testing program at the request of the agency; or
  - (C) provides to the agency false information regarding the contractor's employee drug testing program.

**(b) The provisions of the public works contract relating to cancellation of the contract by the agency awarding the contract apply to cancellation of the public works contract under this section."**

Renumber all SECTIONS consecutively.

(Reference is to ESB 359 as printed February 21, 2006.)

CROUCH

Motion prevailed.

# HOUSE MOTION (Amendment 359-4)

Mr. Speaker: I move that Engrossed Senate Bill 359 be amended to read as follows:

Page 5, delete lines 14 through 42, begin a new paragraph and insert:

"SECTION 4. IC 5-22-7.3 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]:

## Chapter 7.3. Negotiated Bidding

**Sec. 1. (a) This chapter applies only to a purchasing agency in the executive branch.**

**(b) Subject to the policies of the purchasing agency, a purchasing agent may follow the procedure described in this chapter in awarding a contract for supplies instead of awarding a contract under IC 5-22-7.**

**Sec. 2. (a) A purchasing agent may issue an invitation for bids.**

**(b) An invitation for bids must include the following:**

- (1) A purchase description.
- (2) All contractual terms and conditions that apply to the purchase.
- (3) A statement of which, if any, of the following will be used to evaluate bids:
  - (A) Inspection.
  - (B) Testing.
  - (C) Quality.
  - (D) Workmanship.
  - (E) Delivery.
  - (F) Suitability for a particular purpose.
  - (G) The requirement imposed under IC 5-22-3-5.
  - (H) Any other evaluation criteria stated in the invitation for bids.

**(4) The procedure for opening the bids, including the date, time, and place for opening the bids.**

**(5) A statement concerning whether a bid must be accompanied by a certified check or other evidence of financial responsibility that may be required in accordance with policies of the purchasing agency.**

**(6) A statement concerning the conditions under which a bid may be canceled or rejected in whole or in part as specified under IC 5-22-18-2.**

**(7) A statement concerning whether, and the procedures under which, discussions may be conducted with bidders before a contract is awarded. The procedures for conducting discussions with bidders must be consistent with fair competition among all bidders.**

**Sec. 3. Evaluation criteria that will:**

- (1) affect the bid price; and
- (2) be considered in the evaluation for an award;

**must be objectively measurable.**

**Sec. 4. Only criteria specified in the invitation for bids may be used in bid evaluation.**

**Sec. 5. (a) The purchasing agency shall:**

- (1) give notice of the invitation for bids in the manner required by IC 5-3-1; and
- (2) provide electronic access to the notice through the computer gateway administered by the office of technology.

**Sec. 6. (a) An employee of the purchasing agency shall open bids in the presence of one (1) or more other employees of the purchasing agency according to the procedure stated in the invitation for bids as required by section 2(b)(4) of this chapter.**

**(b) Individuals other than employees of the purchasing agency may not be present at an opening of bids unless the bids are opened publicly.**

**Sec. 7. Bids must be:**

- (1) opened so as to avoid disclosure of contents to competing bidders during the process of negotiation; and
- (2) evaluated based on the requirements provided in the invitation for bids.

**Sec. 8. A contract must be awarded with reasonable promptness by written notice to the lowest responsible and responsive bidder.**



**Sec. 9. (a) The purchasing agency shall prepare a bid register.**

**(b) The bid register must contain the following:**

**(1) A copy of all documents that are included as part of the invitation for bids.**

**(2) A list of all persons to whom copies of the invitation for bids were given.**

**(3) A list of all bids received. The list of bids received must include the following information:**

**(A) The name and address of each bidder.**

**(B) The dollar amount of all bid prices received during the bidding process.**

**(C) The name of the successful bidder and the dollar amount of that bidder's bid.**

**(4) The basis on which the award was made.**

**(5) Documentation of the purchasing agency's negotiating process with bidders. The documentation must include the following:**

**(A) A log of the date and times of each meeting with a bidder. The log must include the identity of the bidder.**

**(B) A description of the nature of all communications with each bidder.**

**(C) Subject to subdivision (6), a copy of all written communications, including electronic communications, with each bidder.**

**(6) The entire contents of the contract file except for proprietary information included with a bid, such as trade secrets, manufacturing processes, and financial information that was not required to be made available for public inspection by the terms of the invitation for bids.**

**(c) Except as provided in section 10 of this chapter, the bid register is subject to public inspection only after the contract award.**

**Sec. 10. (a) This section applies only if the amount of the purchase is more than two hundred thousand dollars (\$200,000).**

**(b) After the purchasing agency has completed any negotiations, the purchasing agency shall set a date, time, and place for publishing the bid register required by section 9 of this chapter. The date set under this subsection may not be less than seven (7) days before the purchasing agency notifies the successful bidder of the award of the contract.**

**Sec. 11. (a) The purchasing agency may establish policies to allow any of the following:**

**(1) Correction or withdrawal of inadvertently erroneous bids before or after an award.**

**(2) Cancellation of awards or contracts based on a mistake described in subdivision (1).**

**(b) Except as provided in a rule or policy, a purchasing agency must make a written decision to:**

**(1) permit the correction or withdrawal of a bid; or**

**(2) cancel awards or contracts based on bid mistakes.**

**Sec. 12. If a bidder inserts contract terms or bids on items not specified in the invitation for bids, the purchasing agent shall treat the additional material as a proposal for addition to the contract and may do any of the following:**

**(1) Declare the bidder nonresponsive.**

**(2) Permit the bidder to withdraw the proposed additions to the contract in order to meet the requirements and criteria provided in the invitation for bids.**

**(3) Accept any of the proposed additions to the contract, subject to section 13 of this chapter.**

**Sec. 13. (a) The purchasing agent may not accept proposed additions to the contract that are prejudicial to the interest of the governmental body or fair competition.**

**(b) A decision of the purchasing agent to permit a change to the requirements of the invitation for bids must be supported by a written determination by the purchasing agency."**

Delete page 6.

Page 7, delete lines 1 through 27.

Page 8, delete lines 10 through 42.

Page 9, delete lines 1 through 33, begin a new paragraph and insert:

"SECTION 6. IC 5-22-9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) When a purchasing agent makes a written determination that the use of

competitive sealed bidding is either not practicable or not advantageous to the governmental body, the purchasing agent may award a contract using the procedure provided by this chapter instead of competitive sealed bidding under IC 5-22-7.

**(b) This subsection applies only to a purchasing agent in the executive branch. Notwithstanding subsection (a), and subject to the policies of the purchasing agency, a purchasing agent may award a contract using the procedure provided by this chapter.**

SECTION 7. IC 5-22-9-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 9. (a) Offerors must be accorded fair and equal treatment with respect to any opportunity for discussion and revisions of proposals.

**(b) Except as provided in subsection (c), in conducting discussions with an offeror, information derived from proposals submitted by competing offerors may not be disclosed.**

**(c) This subsection applies only to a purchasing agency in the executive branch. In conducting discussions with an offeror, information derived from proposals submitted by competing offerors may be used in discussion only if the identity of the offeror providing the information is not disclosed to others. The purchasing agency must provide equivalent information to all offerors with which the purchasing agency chooses to have discussions."**

Page 10, delete lines 29 through 31, begin a new paragraph and insert:

"SECTION 9. IC 5-22-7.5-8 IS REPEALED [EFFECTIVE JULY 1, 2006]."

Renumber all SECTIONS consecutively.

(Reference is to ESB 359 as printed February 21, 2006.)

MESSER

Motion prevailed.

HOUSE MOTION

(Amendment 359-8)

Mr. Speaker: I move that Engrossed Senate Bill 359 be amended to read as follows:

Page 10, after line 31, begin a new paragraph and insert:

"SECTION 17. [EFFECTIVE JULY 1, 2006] (a) Notwithstanding any other law, leasing of a highway, bridge, airport, port, intermodal facility, park, or publicly owned venue by a public agency that retains ownership of the parcel by written lease with right of forfeiture is not considered a public use.

**(b) The department of transportation may not exercise the power of eminent domain for a purpose described in subsection (a)."**

Renumber all SECTIONS consecutively.

(Reference is to ESB 359 as printed February 21, 2006.)

KUZMAN

Representative Whetstone rose to a point of order, citing Rule 80, stating that the motion was not germane to the bill. The Speaker ruled the point was well taken and the motion was out of order.

APPEAL OF THE RULING OF THE CHAIR

Mr. Speaker: We hereby appeal the ruling of the Chair that Representative Kuzman's amendment (359-8) is not germane to Engrossed Senate Bill 359.

Amendment 8 is germane to Engrossed Senate Bill 359 because both measures concern the procurement of property by public agencies.

PELATH

KUZMAN

The Speaker yielded the gavel to the Speaker Pro Tempore, Representative Turner.

The question was, Shall the ruling of the Chair be sustained? Roll Call 266: yeas 51, nays 43. The ruling of the Chair was sustained.

HOUSE MOTION

(Amendment 359-2)

Mr. Speaker: I move that Engrossed Senate Bill 359 be amended to read as follows:

Page 5, between lines 13 and 14, begin a new paragraph and insert:

"SECTION 4. IC 5-16-5.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. As used in this chapter:

"State agency" means the state of Indiana or any commission or agency created by law.

"Agent" shall include any board, commission, trustee, officer or agent which acts on behalf of a state agency.

"Public building", "public work" and "public improvement" or combinations thereof shall be construed to include all buildings, work or improvements the cost of which is paid for from public funds but shall not include highways, roads, streets, alleys, bridges and appurtenant structures situated on streets, alleys, **railroad projects (as defined in IC 8-5-15-1)** and dedicated highway rights-of-way.

"Substantial completion" shall be construed to mean the date when the construction of a structure or building is sufficiently completed, in accordance with the plans and specifications, as modified by any completed change orders agreed to by the parties, so that the state agency can occupy the structure or building for the use for which it was intended. Furthermore, the warranty period shall commence no later than the date of substantial completion.

"Contractor" shall mean any person, firm, limited liability company, or corporation who is party to a contract with a state agency to construct, erect, alter or repair any public building or is any way involved in public work or public improvement.

"Subcontractor" shall mean and include any person, firm, limited liability company, or corporation who is a party to a contract with the contractor and who furnishes and performs on-site labor on any public building, work or improvement. It also shall include materialmen who supply contractors or subcontractors as contained herein.

"Retainage" means any amount to be withheld from any payment to a contractor or subcontractor pursuant to the terms of a contract until the occurrence of a specified event.

"Escrowed principal" shall mean the value of all cash and securities or other property at the time placed in an escrow account.

"Escrowed income" shall mean the value of all property held in an escrow account over the escrowed principal in such account."

Renumber all SECTIONS consecutively.

(Reference is to ESB 359 as printed February 21, 2006.)

AYRES

Motion prevailed.

#### HOUSE MOTION (Amendment 359-5)

Mr. Speaker: I move that Engrossed Senate Bill 359 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 4-13-1.8 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

#### **Chapter 1.8. Public Hearings Concerning Public-Private Agreements**

**Sec. 1.** As used in this chapter, "authority" refers to the Indiana finance authority.

**Sec. 2.** As used in this chapter, "department" refers to the Indiana department of transportation.

**Sec. 3.** As used in this chapter, "operator" means a private entity that has been selected by the authority or the department to enter into a public-private agreement.

**Sec. 4.** As used in this chapter, "public-private agreement" means:

- (1) a BOT agreement entered into under IC 5-23;
- (2) an operating agreement entered into under IC 5-23;
- (3) a design-build contract entered into under IC 5-30; or
- (4) an agreement under any other statute;

between a private entity and the authority, or between a private entity and the department, that authorizes the private entity, acting on behalf of the authority or the department, to operate all or part of the Indiana toll road and to collect tolls for the use of the Indiana toll road.

**Sec. 5.** Notwithstanding any other law, the authority or the department may not enter into a public-private agreement before the end of the forty-five (45) day period described in section 6 of

this chapter.

**Sec. 6.** During the forty-five (45) day period following the latest of:

- (1) the effective date of the statute that authorizes the authority or the department to enter into the public-private agreement;
- (2) the date on which the authority or the department selects a private entity to serve as an operator; or
- (3) the date on which the governor designates a private entity to serve as an operator, if the statute authorizing the public-private agreement requires such a designation;

the authority or the department shall conduct public hearings in at least the municipalities listed in section 8 of this chapter.

**Sec. 7.** The authority shall schedule a public hearing on the preliminary selection of an operator and publish notice of the hearing one (1) time in each county in which a public hearing will be held, in accordance with IC 5-3-1 and at least seven (7) days before each hearing. The notice must include the following:

- (1) The date, time, and place of the hearing in the county and the remaining public hearings to be held in other counties.
- (2) The subject matter of the hearing.
- (3) A description of the related toll road project and of the public-private agreement that has been negotiated by the proposed operator and the authority or the department.
- (4) The identity of the offeror that has been selected or designated as the operator for the project.
- (5) The address and telephone number of the authority or the department.
- (6) A statement indicating that, except for those parts that are confidential under IC 5-14-3 or the statute authorizing the public-private agreement, the selected offer and an explanation of the basis upon which the preliminary selection was made are available for public inspection and copying at the principal office of the authority or the department during regular business hours.

**Sec. 8.** Public hearings must be held under this chapter in at least the following municipalities, which the general assembly finds may be affected by a public-private agreement concerning the Indiana toll road or the use of money derived from such a public-private agreement:

- (1) South Bend.
- (2) Gary.
- (3) Merrillville.
- (4) Fort Wayne.
- (5) Washington.
- (6) Bloomington.
- (7) Evansville.
- (8) Jeffersonville.

**Sec. 10.** (a) Except for those parts that are confidential under IC 5-14-3 or the statute authorizing the public-private agreement, the selected offer and a written explanation of the basis upon which the preliminary selection was made shall be made available for inspection and copying in accordance with IC 5-14-3 at least seven (7) days before each hearing scheduled under this chapter.

**Sec. 11.** The authority or the department shall allow the public to be heard on the proposed public-private agreement at each hearing conducted under this chapter.

**Sec. 12.** At the beginning of each hearing conducted under this chapter, a representative of the authority or the department must make a presentation in a manner that is understandable by the average individual that explains all the facts and information related to the proposed public-private agreement and the options the authority or the department has if there is a default in any of the terms of the proposed public-private agreement.

**Sec. 13.** After the conclusion of all the hearings required by this chapter, and before entering into the public-private agreement that was the subject of the hearings, the authority or the department shall review all testimony presented at the hearings in order to determine whether the execution of the proposed public-private agreement is in the best interests of the citizens of Indiana.

**Sec. 14.** If the authority or the department enters into a public-private agreement without complying with this chapter,

the public-private agreement is void."

Page 10, after line 31, begin a new paragraph and insert:  
 "SECTION 18. An emergency is declared for this act."  
 Renumber all SECTIONS consecutively.  
 (Reference is to ESB 359 as printed February 21, 2006.)

OXLEY

Representative Whetstone rose to a point of order, citing Rule 80, stating that the motion was not germane to the bill. The Speaker ruled the point was well taken and the motion was out of order.

#### APPEAL OF THE RULING OF THE CHAIR

Mr. Speaker: We hereby appeal the ruling of the Chair that Representative Oxley's amendment (359-5) is not germane to Engrossed Senate Bill 359.

Amendment 5 is germane to Engrossed Senate Bill 359 because both measures concern modification to the process of public procurement.

PELATH  
OXLEY

The Speaker Pro Tempore yielded the gavel to the Speaker.

The question was, Shall the ruling of the Chair be sustained? Roll Call 267: yeas 50, nays 41. The ruling of the Chair was sustained.

#### HOUSE MOTION (Amendment 359-1)

Mr. Speaker: I move that Engrossed Senate Bill 359 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

**SECTION 1. [EFFECTIVE JULY 1, 2006] (a) The county election board of each county shall place the following public question on the ballot at the November 2006 general election:**

**"Should the State of Indiana prohibit the sale or lease of the Indiana Toll Road to a private company?"**

**(b) The county election board shall print the following immediately below the public question stated in subsection (a):**

**"The vote on these statements is advisory only. The result of the vote on these statements is not binding on the General Assembly, the Governor, or any other public official."**

**(c) The public question described in this SECTION must be placed on the ballot in accordance with IC 3-11-2-15.**

**(d) Each county election board shall tabulate the votes cast on the public question described in this SECTION and certify the results under IC 3-12-4-9.**

**(e) Except as provided in this SECTION, IC 3 applies to the public question described in this SECTION.**

**(f) The secretary of state shall certify the results of the vote on the public question described in this SECTION to each of the following:**

- (1) The speaker of the house of representatives.**
- (2) The president pro tempore of the senate.**
- (3) The governor.**

**(g) This SECTION expires July 1, 2007.**

Renumber all SECTIONS consecutively.

(Reference is to ESB 359 as printed February 21, 2006.)

FRY

Representative Whetstone rose to a point of order, citing Rule 80, stating that the motion was not germane to the bill. The Speaker ruled the point was well taken and the motion was out of order.

#### APPEAL OF THE RULING OF THE CHAIR

Mr. Speaker: We hereby appeal the ruling of the Chair that Representative Fry's amendment (359-1) is not germane to Engrossed Senate Bill 359.

Amendment 1 is germane to Engrossed Senate Bill 359 because both measures concern state public works.

PELATH  
FRY

The Speaker yielded the gavel to the Speaker Pro Tempore, Representative Turner.

The question was, Shall the ruling of the Chair be sustained? Roll Call 268: yeas 50, nays 45. The ruling of the Chair was sustained.

The Speaker Pro Tempore yielded the gavel to the Speaker.

There being no further amendments, the bill was ordered engrossed.

#### Engrossed Senate Bill 355

Representative Ayres called down Engrossed Senate Bill 355 for second reading. The bill was read a second time by title.

#### HOUSE MOTION (Amendment 355-5)

Mr. Speaker: I move that Engrossed Senate Bill 355 be amended to read as follows:

Page 1, between lines 9 and 10, begin a new paragraph and insert:  
**"SECTION 2. IC 6-1.1-12-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:** Sec. 18. (a) If the assessed value of residential real property described in subsection (d) is increased because ~~it~~ **the property** has been rehabilitated, the owner may have deducted from the assessed value of the property an amount not to exceed the lesser of:

- (1) the total increase in assessed value resulting from the rehabilitation; or
- (2) eighteen thousand seven hundred twenty dollars (\$18,720) per rehabilitated dwelling unit.

The owner is entitled to this deduction annually for a five (5) year period.

(b) For purposes of this section, the term "rehabilitation" means significant repairs, replacements, **remodelings, additions, or other** improvements to an existing structure ~~which are intended to that~~ increase the ~~livability, utility, safety, or~~ value of the property. ~~under rules adopted by the department of local government finance.~~

(c) For the purposes of this section, the term "owner" or "property owner" includes any person who has the legal obligation, or has otherwise assumed the obligation, to pay the real property taxes on the rehabilitated property.

(d) The deduction provided by this section applies only for the rehabilitation of residential real property which is located within this state and which is described in one (1) of the following classifications:

- (1) a single family dwelling if before rehabilitation the assessed value (excluding any exemptions or deductions) of the improvements does not exceed thirty-seven thousand four hundred forty dollars (\$37,440);
- (2) a two (2) family dwelling if before rehabilitation the assessed value (excluding exemptions or deductions) of the improvements does not exceed forty-nine thousand nine hundred twenty dollars (\$49,920); and
- (3) a dwelling with more than two (2) family units if before rehabilitation the assessed value (excluding any exemptions or deductions) of the improvements does not exceed eighteen thousand seven hundred twenty dollars (\$18,720) per dwelling unit.

**(e) If an assessed value increase referred to in subsection (a) is attributable to both rehabilitation and:**

- (1) a general reassessment of real property under IC 6-1.1-4-4; or**
- (2) an annual adjustment of the assessed value of real property under IC 6-1.1-4-4.5;**

**the township assessor shall determine the amount of the increase attributable to rehabilitation to determine the deduction provided by this section. In making the determination under this subsection, the township assessor shall consider any information contained in the application under section 20(e) of this chapter.**

**SECTION 3. IC 6-1.1-12-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:** Sec. 19. **(a) Except as provided in subsection (b), the deduction from assessed value provided by section 18 of this chapter is first available in the year in which the increase in assessed value resulting from the rehabilitation occurs and shall continue for each of the immediately following four (4) years in the sixth (6th) year, the county auditor shall add the amount of the deduction to the assessed value of the real**

property, which the property owner remains the owner of the property as of the assessment date.

(b) Subject to subsection (c), a property owner may:

(1) in a year after the year referred to in subsection (a) in which a deduction is first available, obtain a deduction that:

(A) would otherwise first apply for the assessment date in 2006 or a later year; and

(B) was not made to the assessed value for any year; or

(2) obtain a deduction that:

(A) would otherwise have first applied for the assessment date in 2005 or an earlier year; and

(B) was not made to the assessed value for any year.

If the property owner obtains a deduction under this subsection, the deduction applies in the year for which the application is filed and continues for each of the immediately following four (4) years in which the property owner remains the owner of the property as of the assessment date.

(c) Subsection (b) applies in a county only if the county fiscal body adopts an ordinance to authorize the application of subsection (b) in the county.

(d) A general reassessment of real property which occurs within the five (5) year period of the deduction does not affect the amount of the deduction.

(e) Claiming of a deduction under subsection (b) results in a reduction of the property tax collections of each political subdivision in which the deduction is claimed. A political subdivision may not increase its property tax levy to make up for that reduction.

(f) The county auditor shall in each calendar year notify each political subdivision in which the deduction under subsection (b) is claimed of the reduction referred to in subsection (e) for the political subdivision for that year.

SECTION 4. IC 6-1.1-12-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 20. (a) A property owner who desires to obtain the deduction provided by section 18 of this chapter must file a certified deduction application, on forms prescribed by the department of local government finance, with the auditor of the county in which the rehabilitated property is located. The application may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing. Except as provided in subsection (b) or (c), the application must be filed before ~~May 10~~ **June 11** of the year in which the addition to assessed value is made.

(b) If notice of the addition to assessed value for any year is not given to the property owner before ~~April 10~~ **May 11** of that year, the application required by this section subsection (a) may be filed not later than thirty (30) days after the date ~~such a~~ the notice is mailed to the property owner at the address shown on the records of the township assessor.

(c) An application for a deduction referred to in section 19(b) of this chapter with respect to an assessment date must be filed before the **June 11** that next follows the assessment date.

(~~e~~) (d) The application required by this section shall contain the following information:

(1) A description of the property for which a deduction is claimed in sufficient detail to afford identification.

(2) Statements of the ownership of the property.

(3) The assessed value of the improvements on the property before rehabilitation.

(4) The number of dwelling units on the property.

(5) The number of dwelling units rehabilitated.

(6) The increase in assessed value resulting from the rehabilitation. ~~and~~

(7) The amount of deduction claimed.

(e) The application required by this section may contain information to assist the township assessor in making the determination under section 18(e) of this chapter, including:

(1) fair market value appraisals before and after the rehabilitation; and

(2) general market data on the extent to which particular types of rehabilitation add to the value of a dwelling.

(~~d~~) (f) A deduction application filed under this section is applicable for:

(1) the year in for which the increase in assessed value occurs **deduction application is filed; and for**

(2) each of the immediately following four (4) years in which the property owner remains the owner of the property as of the assessment date;

without any additional application being filed.

(~~e~~) (g) On verification of an application by the assessor ~~of who~~ serves the township area in which the property is located, the county auditor shall make the deduction.

SECTION 5. IC 6-1.1-12-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 22. (a) If the assessed value of property is increased because ~~it the~~ **the property** has been rehabilitated and the owner has paid at least ten thousand dollars (\$10,000) for the rehabilitation, the owner is entitled to have deducted from the assessed value of the property an amount equal to fifty percent (50%) of the increase in assessed value resulting from the rehabilitation. The owner is entitled to this deduction annually for a five (5) year period. However, the maximum deduction which a property owner may receive under this section for a particular year is:

(1) one hundred twenty-four thousand eight hundred dollars (\$124,800) for a single family dwelling unit; or

(2) three hundred thousand dollars (\$300,000) for any other type of property.

(b) For purposes of this section, the term "property" means a building or structure which was erected at least fifty (50) years before the date of application for the deduction provided by this section. The term "property" does not include land.

(c) For purposes of this section, the term "rehabilitation" means significant repairs, replacements, **remodelings, additions, or other** improvements to an existing structure that ~~are intended to~~ increase the livability, utility, safety, or value of the property. ~~under rules adopted by the department of local government finance.~~

(d) If an assessed value increase referred to in subsection (a) is attributable to both rehabilitation and:

(1) a general reassessment of real property under IC 6-1.1-4-4; or

(2) an annual adjustment of the assessed value of real property under IC 6-1.1-4-4.5;

the township assessor shall determine the amount of the increase attributable to rehabilitation to determine the deduction provided by this section. In making the determination under this subsection, the township assessor shall consider any information contained in the application under section 24(e) of this chapter.

SECTION 6. IC 6-1.1-12-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 23. (a) ~~Except as provided in subsection (b), the deduction from assessed value provided by section 22 of this chapter is first available after the first assessment date following in the year in which the increase in assessed value resulting from the rehabilitation occurs and shall continue continues for the taxes first due and payable in each of the immediately following five (5) four (4) years in the sixth (6th) year; the county auditor shall add the amount of the deduction to the assessed value of the property, which the property owner remains the owner of the property as of the assessment date.~~

(b) Subject to subsection (c), a property owner may:

(1) in a year after the year referred to in subsection (a) in which a deduction is first available, obtain a deduction that:

(A) would otherwise first apply for the assessment date in 2006 or a later year; and

(B) was not made to the assessed value for any year; or

(2) obtain a deduction that:

(A) would otherwise have first applied for the assessment date in 2005 or an earlier year; and

(B) was not made to the assessed value for any year.

If the property owner obtains a deduction under this subsection, the deduction applies in the year for which the application is filed and continues for each of the immediately following four (4) years in which the property owner remains the owner of the property as of the assessment date.

(c) Subsection (b) applies in a county only if the county fiscal body adopts an ordinance to authorize the application of subsection (b) in the county.

(d) Any general reassessment of real property which occurs within

the five (5) year period of the deduction does not affect the amount of the deduction.

**(e) Claiming of a deduction under subsection (b) results in a reduction of the property tax collections of each political subdivision in which the deduction is claimed. A political subdivision may not increase its property tax levy to make up for that reduction.**

**(f) The county auditor shall in each calendar year notify each political subdivision in which the deduction under subsection (b) is claimed of the reduction referred to in subsection (e) for the political subdivision for that year.**

SECTION 7. IC 6-1.1-12-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 24. (a) A property owner who desires to obtain the deduction provided by section 22 of this chapter must file a certified deduction application, on forms prescribed by the department of local government finance, with the auditor of the county in which the property is located. The application may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing. Except as provided in subsection (b) **or (c)**, the application must be filed before ~~May 10~~ **June 11** of the year in which the addition to assessed ~~valuation~~ **value** is made.

(b) If notice of the addition to assessed ~~valuation~~ **value** for any year is not given to the property owner before ~~April 10~~ **May 11** of that year, the application required by ~~this section~~ **subsection (a)** may be filed not later than thirty (30) days after the date such a notice is mailed to the property owner at the address shown on the records of the ~~township~~ assessor.

**(c) An application for a deduction referred to in section 23(b) of this chapter with respect to an assessment date must be filed before the June 11 that next follows the assessment date.**

~~(c)~~ **(d)** The application required by this section shall contain the following information:

- (1) The name of the property owner.
- (2) A description of the property for which a deduction is claimed in sufficient detail to afford identification.
- (3) The assessed value of the improvements on the property before rehabilitation.
- (4) The increase in the assessed value of improvements resulting from the rehabilitation. ~~and~~
- (5) The amount of deduction claimed.

**(e) The application required by this section may contain information to assist the township assessor in making the determination under section 22(d) of this chapter, including:**

- (1) fair market value appraisals before and after the rehabilitation; and**
- (2) general market data on the extent to which particular types of rehabilitation add to the value of property.**

~~(d)~~ **(f)** A deduction application filed under this section is applicable for:

- (1) the year in for which the addition to assessed value is made deduction application is filed; and in**
- (2) each of the immediate immediately following four (4) years in which the property owner remains the property owner as of the assessment date;**

without any additional application being filed.

~~(e)~~ **(g)** On verification of the correctness of an application by the assessor ~~of who serves the township area~~ in which the property is located, the county auditor shall make the deduction.

SECTION 8. IC 6-1.1-12-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 25. For repairs or improvements made to a particular building or structure, a person may receive: ~~either~~

- (1) the deduction provided by section 18 of this chapter; or**
- (2) the deduction provided by section 22 of this chapter; ~~He~~ or**
- (3) the credit provided by IC 6-1.1-47.**

**The person may not receive deductions a tax benefit under both sections more than one (1) of those statutes for the repairs or improvements.**

SECTION 9. IC 6-1.1-12.1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. (a) A property owner may not receive a deduction under this chapter for repairs or improvements to real property if ~~he~~ **the owner** receives:

**(1) a deduction under either IC 6-1.1-12-18 or IC 6-1.1-12-22; or**

**(2) a credit under IC 6-1.1-47;**

for those same repairs or improvements.

(b) A property owner may not receive a deduction under this chapter if the property owner receives a deduction under IC 6-1.1-12-28.5 for the same property.

SECTION 10. IC 6-1.1-17-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) On or before August 1 of each year, the county auditor shall send a certified statement, under the seal of the board of county commissioners, to the fiscal officer of each political subdivision of the county and the department of local government finance. The statement shall contain:

- (1) information concerning the assessed valuation in the political subdivision for the next calendar year;
- (2) an estimate of the taxes to be distributed to the political subdivision during the last six (6) months of the current calendar year;
- (3) the current assessed valuation as shown on the abstract of charges;
- (4) the average growth in assessed valuation in the political subdivision over the preceding three (3) budget years, excluding years in which a general reassessment occurs, determined according to procedures established by the department of local government finance;
- (5) information concerning credits applicable under IC 6-1.1-21-5.8 to taxes first due and payable in the next calendar year; and**
- ~~(5)~~ **(6)** any other information at the disposal of the county auditor that might affect the assessed value used in the budget adoption process.

(b) The estimate of taxes to be distributed shall be based on:

- (1) the abstract of taxes levied and collectible for the current calendar year, less any taxes previously distributed for the calendar year; and
- (2) any other information at the disposal of the county auditor which might affect the estimate.

(c) The fiscal officer of each political subdivision shall present the county auditor's statement to the proper officers of the political subdivision."

Page 9, between lines 5 and 6, begin a new paragraph and insert:

"SECTION 12. IC 6-1.1-21-5.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5.8. (a) The following definitions apply throughout this section:

**(1) "Adjusted gross income" has the meaning set forth in IC 6-3-1-3.5.**

**(2) "Assets":**

**(A) includes:**

- (i) real property, other than the homestead with respect to which a qualifying individual applies for a credit under this section;**
- (ii) cash;**
- (iii) savings accounts;**
- (iv) stocks;**
- (v) bonds; and**
- (vi) any other investment; and**

**(B) does not include:**

- (i) the cash value of life insurance policies on the life of the qualifying individual or the qualifying individual's spouse; and**
- (ii) tangible personal property.**

**(3) "Fiscal body" has the meaning set forth in IC 36-1-2-6.**

**(4) "Homestead" has the meaning set forth in IC 6-1.1-20.9-1(2).**

**(5) "Household income" means the combined adjusted gross income of the qualifying individual and the qualifying individual's spouse.**

**(6) "Net property tax bill" means the amount of property taxes currently due and payable in a particular calendar year after the application of all deductions and credits, except for the credit provided by this section, as evidenced by the tax statement required in IC 6-1.1-22-8.**

- (7) "Net worth" means the remainder of:
- (A) the sum of the current market value of all assets; minus
  - (B) all outstanding liabilities.
- (8) "Qualifying homestead" means a homestead:
- (A) that a qualifying individual:
    - (i) owned; or
    - (ii) assumed liability for the payment of property taxes;
 at least five (5) years before the assessment date for the homestead in the year for which the qualifying individual wishes to obtain the credit under this section; and
  - (B) that has an assessed value of not more than one hundred eighty thousand dollars (\$180,000) as of the assessment date for the homestead in the year that immediately precedes the year for which the qualifying individual wishes to obtain the credit under this section multiplied by a fraction determined by the department of local government finance for the county in which the homestead is located. The numerator of the fraction is the average homestead assessed value in the county in which the homestead is located in the year immediately preceding the year in which the qualifying individual wishes to obtain the credit under this section, and the denominator of the fraction is the average homestead assessed value in Marion County in the year immediately preceding the year in which the qualifying individual wishes to obtain the credit under this section.
- (9) "Qualifying individual" means an individual:
- (A) who is liable for the payment of property taxes on a qualifying homestead;
  - (B) whose adjusted gross income for the individual's most recent taxable year that ends before the date on which the claim is filed under subsection (g) is less than seventy-five thousand dollars (\$75,000); and
  - (C) who is not married and has a net worth, or has a net worth in combination with the net worth of the individual's spouse, of less than two hundred thousand dollars (\$200,000) as of December 31 of:
    - (i) with respect to real property, the year that precedes by two (2) years the year for which the individual wishes to obtain the credit under this section; and
    - (ii) with respect to a mobile home that is not assessed as real property or a manufactured home that is not assessed as real property, the year that immediately precedes the year for which the individual wishes to obtain the credit under this section.
- (10) "Taxable year" has the meaning set forth in IC 6-3-1-16.

(b) The credit provided by this section applies in a county for property taxes first due and payable in a calendar year only if the county fiscal body of the county adopts an ordinance to apply the credit before July 1 of the immediately preceding calendar year. An ordinance adopted under this subsection may authorize the credit for more than one (1) year.

(c) The application of the credit under this chapter results in a reduction of the property tax collections of each political subdivision in which the credit is applied. A political subdivision may not increase its property tax levy to make up for that reduction.

(d) The county auditor shall in each calendar year notify each political subdivision in which the credit under this chapter is applied of the reduction referred to in subsection (c) for the political subdivision for that year.

(e) Except as provided in subsection (f), each year a qualifying individual in a county in which the credit provided by this section is authorized under subsection (b) may receive a credit against the net property tax bill on the individual's qualifying homestead. The amount of the credit to which a qualifying individual is entitled equals the lesser of two thousand dollars (\$2,000) or the remainder of:

- (1) the amount of the net property tax bill without the application of the credit provided by this section; minus
- (2) the following percentage of the qualifying individual's

adjusted gross income for the qualifying individual's most recent taxable year that ends before the date on which the claim is filed under subsection (g):

- (A) Five percent (5%) if the adjusted gross income is less than twenty thousand dollars (\$20,000).
- (B) Seven percent (7%) if the adjusted gross income is at least twenty thousand dollars (\$20,000) but less than fifty thousand dollars (\$50,000).
- (C) Nine percent (9%) if the adjusted gross income is at least fifty thousand dollars (\$50,000) but less than seventy-five thousand dollars (\$75,000).

The amount of the credit provided by this section may not be less than zero (0).

(f) If the qualifying individual resides in the qualifying homestead with the qualifying individual's spouse, those individuals are together entitled to one (1) credit under this section for the qualifying homestead. The amount of the credit is determined under subsection (e), except that the household income is substituted for the qualifying individual's adjusted gross income.

(g) A qualifying individual or a qualifying individual and the qualifying individual's spouse who desire to claim the credit provided by this section must file a certified statement in duplicate, on forms prescribed by the department of local government finance, with the auditor of the county in which the qualifying homestead is located. With respect to real property, the statement must be filed after January 1 and before June 11 of the year before the year for which the qualifying individual or the qualifying individual and the qualifying individual's spouse wish to obtain the credit under this section. For a mobile home that is not assessed as real property or a manufactured home that is not assessed as real property, the statement must be filed after January 1 and before March 2 of the year for which the qualifying individual or the qualifying individual and the qualifying individual's spouse wish to obtain the credit under this section. The statement must contain the following information:

- (1) The full name or names and complete address of the qualifying individual or the qualifying individual and the qualifying individual's spouse.
- (2) A description of the qualifying homestead.
- (3) The amount of:
  - (A) the qualifying individual's adjusted gross income referred to in subsection (e)(2); or
  - (B) if subsection (f) applies, the household income referred to in subsection (f) of the qualifying individual and the qualifying individual's spouse.
- (4) The name of any other county and township in which the qualifying individual or the qualifying individual's spouse owns or is buying on contract:
  - (A) real property; or
  - (B) a:
    - (i) mobile home; or
    - (ii) manufactured home;
 that is not assessed as real property.
- (5) The record number and page where the contract or memorandum of the contract is recorded if the qualifying homestead is under contract purchase.
- (6) Proof of net worth as of the date specified in subsection (a)(9)(C):
  - (A) in a form determined by the department of local government finance; and
  - (B) including:
    - (i) income tax returns or other evidence detailing gross income; and
    - (ii) other documentation as determined by the department of local government finance.
- (7) Any other information required by the department of local government finance.
- (h) The auditor of a county with whom a statement is filed under subsection (g) shall immediately prepare and transmit a copy of the statement to the auditor of any other county if the qualifying individual who claims the credit or the qualifying individual's spouse owns or is buying property located in the other county as described in subsection (g)(4). The auditor of the

other county described in subsection (g)(4) shall note on the copy of the statement whether a credit has been claimed under this section for a qualifying homestead located in the auditor's county. The auditor shall then return the copy to the auditor of the first county.

(i) Subject to subsection (j), if a proper certified credit statement is filed under subsection (g), the county auditor shall allow the credit and shall apply the credit equally against each installment of property taxes. The county auditor shall include the amount of the credit applied against each installment of property taxes on the tax statement required under IC 6-1.1-22-8.

(j) If the qualifying homestead qualifies for the credit under IC 6-1.1-20.6 and a statement to claim the credit under this section is filed under subsection (g), the county auditor shall:

(1) determine from the individual who filed the statement whether the individual elects to have applied:

(A) the credit under this section; or

(B) the credit under IC 6-1.1-20.6; and

(2) apply only the credit elected by that individual as determined under subdivision (1).

(k) If an individual knowingly or intentionally files a false statement under this section, the individual must pay the amount of any credit the individual received because of the false statement, plus interest at the rate of ten percent (10%) per year, to the county auditor for distribution to the taxing units of the county in the same proportion that property taxes are distributed.

SECTION 13. IC 6-1.1-21-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7. (a) Notwithstanding IC 6-1.1-26, any taxpayer who is entitled to a credit under this chapter or who has properly filed for and is entitled to a credit under IC 6-1.1-20.9, and who, without taking the credit, pays in full the taxes to which the credit applies, is entitled to a refund, without interest, of an amount equal to the amount of the credit. However, if the taxpayer, at the time a refund is claimed, owes any other taxes, interest, or penalties payable to the county treasurer to whom the taxes subject to the credit were paid, then the credit shall be first applied in full or partial payment of the other taxes, interest, and penalties and the balance, if any, remaining after that application is available as a refund to the taxpayer.

(b) Any taxpayer entitled to a refund under this section **other than a refund based on the credit under section 5.8 of this chapter** shall be paid that refund from proceeds of the property tax replacement fund. However, with respect to any refund attributable to a homestead credit, the refund shall be paid from that fund only to the extent that the percentage homestead credit the taxpayer was entitled to receive for a year does not exceed the percentage credit allowed in IC 6-1.1-20.9-2(d) for that same year. Any refund in excess of that amount shall be paid from the county's revenue distributions received under IC 6-3.5-6.

(c) The state board of accounts shall establish an appropriate procedure to simplify and expedite the method for claiming these refunds and for the payments thereof, as provided for in this section, which procedure is the exclusive procedure for the processing of the refunds. The procedure shall, however, require the filing of claims for the refunds by not later than June 1 of the year following the payment of the taxes to which the credit applied."

Page 17, between lines 38 and 39, begin a new paragraph and insert:

"SECTION 25. IC 6-1.1-42-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 22. (a) The designating body shall determine whether to approve a deduction.

(b) A designating body may not grant a deduction for a facility described in IC 6-1.1-12.1-3(e).

(c) A property owner may not receive a deduction under this chapter for repairs or improvements to real property if the owner receives:

(1) a deduction under ~~either~~ IC 6-1.1-12.1, IC 6-1.1-12-18, IC 6-1.1-12-22, or IC 6-1.1-12-28.5; or

(2) a credit under IC 6-1.1-47;

for the same property.

(d) A designating body may approve a deduction only if the following findings are made in the affirmative:

(1) The applicant:

(A) has never had an ownership interest in an entity that contributed; and

(B) has not contributed;

a contaminant (as defined in IC 13-11-2-42) that is the subject of the voluntary remediation, as determined under the written standards adopted by the department of environmental management.

(2) The proposed improvement or property will be located in a zone.

(3) The estimate of the value of the remediation and redevelopment is reasonable for projects of that nature.

(4) The estimate of the number of individuals who will be employed or whose employment will be retained can be reasonably expected to result from the proposed described remediation and redevelopment.

(5) The estimate of the annual salaries of those individuals who will be employed or whose employment will be retained can be reasonably expected to result from the proposed described remediation and redevelopment.

(6) Any other benefits about which information was requested are benefits that can be reasonably expected to result from the proposed described remediation and redevelopment.

(7) The totality of benefits is sufficient to justify the deduction.

SECTION 26. IC 6-1.1-47 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]:

#### **Chapter 47. Historic Rehabilitation Property Tax Credit**

**Sec. 1.** The definitions in IC 6-3.1-16 and IC 6-3.1-22 apply throughout this section.

**Sec. 2. (a)** A county fiscal body may adopt an ordinance to authorize the application of the credit under this chapter against an owner's property tax liability that is attributable to increases in assessed valuation of the owner's historic property resulting from the rehabilitation of the historic property.

**(b)** An ordinance adopted under this section must specify the first assessment date for which an increase in the assessed valuation of an historic property resulting from rehabilitation becomes eligible for a credit under this chapter.

**Sec. 3.** An ordinance adopted under section 2 of this chapter authorizes the credit for:

(1) the first calendar year that the owner's property tax liability is determined using an increase in the historic property's assessed valuation resulting from the rehabilitation of the historic property; and

(2) the four (4) succeeding calendar years during the five (5) year period referred to in section 5 of this chapter.

**Sec. 4.** Subject to section 11 of this chapter and IC 6-1.1-12-25, if:

(1) the assessed valuation of historic property is increased:

(A) as a result of rehabilitation; and

(B) as of an assessment date to which an ordinance adopted under section 2 of this chapter applies; and

(2) the owner is eligible for a historic rehabilitation credit under IC 6-3.1-16 or IC 6-3.1-22 against the owner's state tax liability based on the rehabilitation;

the owner is entitled to a credit against the owner's property tax liability attributable to the property. The amount of the credit to which the owner is entitled is determined under section 5 of this chapter.

**Sec. 5. (a)** Subject to subsection (b), the amount of the credit equals one hundred percent (100%) of the owner's property tax liability that is attributable to the increase in assessed valuation resulting from the rehabilitation. The owner is entitled to this credit annually for a five (5) year period. The first year of that period is the first year that the rehabilitation results in an increase in the owner's property tax liability attributable to the historic property. If the rehabilitation results in increases in the property tax liability attributable to the historic property in more than one (1) year, each annual increase may qualify separately for the credit.

**(b) If:**

(1) a general reassessment of real property under



IC 6-1.1-4-4 or an adjustment under IC 6-1.1-4-4.5 occurs within the period of the credit; or

(2) an appeal of an assessment is approved that results in a change in the assessed valuation of the historic property; the amount of the credit shall be adjusted to reflect the resulting percentage increase or decrease in the assessed valuation of the historic property and its corresponding effect on the property tax liability attributable to the historic property.

Sec. 6. The credit reduces the amount of historic rehabilitation credit to which the owner is entitled under IC 6-3.1-16-7 or IC 6-3.1-22-8. This credit shall be applied before the homestead credit provided under IC 6-1.1-20.9 and the property tax replacement credit provided under IC 6-1.1-21.

Sec. 7. A property owner who desires to obtain the credit must file a certified credit application, on forms prescribed by the department of local government finance, with the auditor of the county in which the property is located. The application may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing. The statement must be filed during the twelve (12) months before June 11 of the year prior to the first year for which the person wishes to obtain the credit for the historic property.

Sec. 8. The application required by section 7 of this chapter must contain the following information:

- (1) The name of the property owner.
- (2) A description of the property for which a credit is claimed in sufficient detail to afford identification.
- (3) The certifications required:
  - (A) under IC 6-3.1-16-8 to obtain the credit under IC 6-3.1-16; or
  - (B) under IC 6-3.1-22-9 to obtain the credit under IC 6-3.1-22.
- (4) A description of the rehabilitation of the historic property.
- (5) Evidence of the cost of the rehabilitation of the historic property.
- (6) The assessed valuation of the improvements on the historic property before the rehabilitation.
- (7) The increase in the assessed valuation of improvements resulting from the rehabilitation.

Sec. 9. A credit application filed under section 7 of this chapter applies for the entire period under section 5 of this chapter that the owner is entitled to a credit under this chapter without a requirement for any additional application.

Sec. 10. On verification of the correctness of an application by the assessor of the township in which the property is located, the county auditor shall make the credit in the amount determined under section 5 of this chapter.

Sec. 11. If the conditions for the recapture of a credit under IC 6-3.1-16-12 or IC 6-3.1-22-13 are met, the property owner shall pay to the county treasurer for each year the credit was in effect the amount of additional property taxes for which the property owner would have been liable if the credit had not been in effect. The county treasurer shall distribute money paid under this section proportionately to the general fund of each taxing unit in which the property that was subject to the credit is located based on the property tax rates of the units.

Sec. 12 (a) The application of the credit under this chapter results in a reduction of the property tax collections of each political subdivision in which the credit is applied. A political subdivision may not increase its property tax levy to make up for that reduction.

(b) The county auditor shall in each calendar year notify each political subdivision in which the credit under this chapter is applied of the reduction referred to in subsection (a) for the political subdivision for that year.

Sec. 13. The department of local government finance may adopt rules under IC 4-22-2 to implement this section.

SECTION 27. IC 6-3.1-16-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7. (a) Subject to section 14 of this chapter and except as provided in subsection (d), a taxpayer is entitled to a credit against the taxpayer's state tax liability in the taxable year in which the taxpayer completes the preservation or rehabilitation of historic property and obtains the

certifications required under section 8 of this chapter.

(b) **Except as provided in subsection (d)**, the amount of the credit is equal to twenty percent (20%) of the qualified expenditures that:

- (1) the taxpayer makes for the preservation or rehabilitation of historic property; and
- (2) are approved by the division.

(c) In the case of a husband and wife who:

- (1) own and rehabilitate a historic property jointly; and
- (2) file separate tax returns;

the husband and wife may take the credit in equal shares or one (1) spouse may take the whole credit.

(d) **The amount of the credit for a taxable year is reduced by the amount by which the taxpayer's property tax liability is reduced for taxes first due and payable in the taxable year as the result of the application of the credit under IC 6-1.1-47.**

SECTION 28. IC 6-3.1-16-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 10. To obtain a credit under this chapter, a taxpayer must claim the credit on the taxpayer's annual state tax return or returns in the manner prescribed by the department of state revenue. The taxpayer shall submit to the department of state revenue:

- (1) the certifications by the division required under section 8 of this chapter;
- (2) a statement whether the taxpayer claimed a property tax credit based on the rehabilitation under IC 6-1.1-47 that resulted in a reduction of the taxpayer's liability for property taxes first due and payable in the taxable year for which the credit is claimed;
- (3) if the taxpayer's property tax liability was reduced as described in subdivision (2), the amount of the reduction for property taxes first due and payable in the taxable year for which the credit is claimed; and
- (4) all other information that the department of state revenue determines is necessary for the calculation of the credit provided by this chapter.

SECTION 29. IC 6-3.1-22-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. (a) Subject to section 14 of this chapter and except as provided in subsection (d), a taxpayer is entitled to a credit against the taxpayer's state tax liability in the taxable year in which the taxpayer completes the preservation or rehabilitation of historic property and obtains the certifications required under section 9 of this chapter.

(b) The amount of the credit is equal to twenty percent (20%) of the qualified expenditures that:

- (1) the taxpayer makes for the preservation or rehabilitation of historic property; and
- (2) are approved by the division.

(c) In the case of a husband and wife who:

- (1) own and rehabilitate a historic property jointly; and
- (2) file separate tax returns;

the husband and wife may take the credit in equal shares or one (1) spouse may take the whole credit.

(d) **The amount of the credit for a taxable year is reduced by the amount by which the taxpayer's property tax liability is reduced for taxes first due and payable in the taxable year as the result of the application of the credit under IC 6-1.1-47.**

SECTION 30. IC 6-3.1-22-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 11. To obtain a credit under this chapter, a taxpayer must claim the credit on the taxpayer's annual state tax return or returns in the manner prescribed by the department of state revenue. The taxpayer shall submit to the department of state revenue:

- (1) the certifications by the division required under section 9 of this chapter;
- (2) a statement whether the taxpayer claimed a property tax credit based on the rehabilitation under IC 6-1.1-47 that resulted in a reduction of the taxpayer's liability for property taxes first due and payable in the taxable year for which the credit is claimed;
- (3) if the taxpayer's property tax liability was reduced as described in subdivision (2), the amount of the reduction for property taxes first due and payable in the taxable year for which the credit is claimed; and



(4) all other information that the department of state revenue determines is necessary for the calculation of the credit provided by this chapter."

Page 20, line 13, delete "IC 6-1.1-37-10.7," and insert "IC 6-1.1-21-5.8 and IC 6-1.1-37-10.7, both".

Page 20, line 14, delete "applies" and insert "apply".

Page 20, between lines 15 and 16, begin a new paragraph and insert:

"SECTION 39. [EFFECTIVE JULY 1, 2006] (a) IC 6-1.1-47, as added by this act, and IC 6-1.1-12-18, IC 6-1.1-12-22, and IC 6-1.1-12-25, all as amended by this act, apply only to property taxes first due and payable after December 31, 2006.

(b) The credit under IC 6-1.1-47, as added by this act, applies regardless of whether the rehabilitation for which the deduction is claimed occurred before July 1, 2006.

SECTION 40. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION:

(1) "assessment date" has the meaning set forth in IC 6-1.1-1-2; and

(2) "rehabilitation" has the meaning set forth in:

(A) IC 6-1.1-12-18(b), as amended by this act; and

(B) IC 6-1.1-12-22(c), as amended by this act.

(b) For property taxes first due and payable after December 31, 2006, a property owner may file an application before July 1, 2006, for a deduction:

(1) under:

(A) IC 6-1.1-12-19(b)(2), as amended by this act; or

(B) IC 6-1.1-12-23(b)(2), as amended by this act; or

(2) first applicable to the assessment date in 2006 under:

(A) IC 6-1.1-12-20, as amended by this act; or

(B) IC 6-1.1-12-24, as amended by this act;

based on rehabilitation completed after March 1, 2005, and before March 2, 2006.

(c) This SECTION expires January 1, 2007.

SECTION 41. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION:

(1) "assessment date" has the meaning set forth in IC 6-1.1-1-2; and

(2) "rehabilitation" has the meaning set forth in IC 6-3.1-22-5.

(b) For property taxes first due and payable after December 31, 2006, a property owner may file an application before July 1, 2006, for a credit under IC 6-1.1-47, as added by this act, first applicable to the assessment date in 2006 based on rehabilitation completed after March 1, 2005, and before March 2, 2006.

(c) This SECTION expires January 1, 2007."

Renumber all SECTIONS consecutively.

(Reference is to ESB 355 as printed February 22, 2006.)

ORENTLICHER

Upon request of Representatives Orentlicher and Dobis, the Speaker ordered the roll of the House to be called. Roll Call 269: yeas 41, nays 51. Motion failed.

#### HOUSE MOTION (Amendment 355-4)

Mr. Speaker: I move that Engrossed Senate Bill 355 be amended to read as follows:

Page 17, between lines 38 and 39, begin a new paragraph and insert:

"SECTION 13. IC 6-3-1-3.5, AS AMENDED BY P.L.246-2005, SECTION 69, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]: Sec. 3.5. When used in this article, the term "adjusted gross income" shall mean the following:

(a) In the case of all individuals, "adjusted gross income" (as defined in Section 62 of the Internal Revenue Code), modified as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 62 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.

(3) Subtract one thousand dollars (\$1,000), or in the case of a joint return filed by a husband and wife, subtract for each spouse one thousand dollars (\$1,000).

(4) Subtract one thousand dollars (\$1,000) for:

(A) each of the exemptions provided by Section 151(c) of the Internal Revenue Code;

(B) each additional amount allowable under Section 63(f) of the Internal Revenue Code; and

(C) the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

(5) Subtract:

(A) one thousand five hundred dollars (\$1,500) for each of the exemptions allowed under Section 151(c)(1)(B) of the Internal Revenue Code for taxable years beginning after December 31, 1996; and

(B) five hundred dollars (\$500) for each additional amount allowable under Section 63(f)(1) of the Internal Revenue Code if the adjusted gross income of the taxpayer, or the taxpayer and the taxpayer's spouse in the case of a joint return, is less than forty thousand dollars (\$40,000).

This amount is in addition to the amount subtracted under subdivision (4).

(6) Subtract an amount equal to the lesser of:

(A) that part of the individual's adjusted gross income (as defined in Section 62 of the Internal Revenue Code) for that taxable year that is subject to a tax that is imposed by a political subdivision of another state and that is imposed on or measured by income; or

(B) two thousand dollars (\$2,000).

(7) Add an amount equal to the total capital gain portion of a lump sum distribution (as defined in Section 402(e)(4)(D) of the Internal Revenue Code) if the lump sum distribution is received by the individual during the taxable year and if the capital gain portion of the distribution is taxed in the manner provided in Section 402 of the Internal Revenue Code.

(8) Subtract any amounts included in federal adjusted gross income under Section 111 of the Internal Revenue Code as a recovery of items previously deducted as an itemized deduction from adjusted gross income.

(9) Subtract any amounts included in federal adjusted gross income under the Internal Revenue Code which amounts were received by the individual as supplemental railroad retirement annuities under 45 U.S.C. 231 and which are not deductible under subdivision (1).

(10) Add an amount equal to the deduction allowed under Section 221 of the Internal Revenue Code for married couples filing joint returns if the taxable year began before January 1, 1987.

(11) Add an amount equal to the interest excluded from federal gross income by the individual for the taxable year under Section 128 of the Internal Revenue Code if the taxable year began before January 1, 1985.

(12) Subtract an amount equal to the amount of federal Social Security and Railroad Retirement benefits included in a taxpayer's federal gross income by Section 86 of the Internal Revenue Code.

(13) In the case of a nonresident taxpayer or a resident taxpayer residing in Indiana for a period of less than the taxpayer's entire taxable year, the total amount of the deductions allowed pursuant to subdivisions (3), (4), (5), and (6) shall be reduced to an amount which bears the same ratio to the total as the taxpayer's income taxable in Indiana bears to the taxpayer's total income.

(14) In the case of an individual who is a recipient of assistance under IC 12-10-6-1, IC 12-10-6-2.1, IC 12-15-2-2, or IC 12-15-7, subtract an amount equal to that portion of the individual's adjusted gross income with respect to which the individual is not allowed under federal law to retain an amount to pay state and local income taxes.

(15) In the case of an eligible individual, subtract the amount of a Holocaust victim's settlement payment included in the

individual's federal adjusted gross income.

(16) For taxable years beginning after December 31, 1999, subtract an amount equal to the portion of any premiums paid during the taxable year by the taxpayer for a qualified long term care policy (as defined in IC 12-15-39.6-5) for the taxpayer or the taxpayer's spouse, or both.

(17) Subtract an amount equal to the lesser of:

(A) for a taxable year:

(i) including any part of 2004 **or 2005**, the amount determined under subsection (f); and

(ii) beginning after December 31, ~~2004~~, **2005**, two thousand five hundred dollars (\$2,500); or

(B) the amount of property taxes that are paid during the taxable year in Indiana by the individual on the individual's principal place of residence.

(18) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the individual's federal adjusted gross income.

(19) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(20) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(21) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

(22) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(b) In the case of corporations, the same as "taxable income" (as defined in Section 63 of the Internal Revenue Code) adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 170 of the Internal Revenue Code.

(3) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 63 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.

(4) Subtract an amount equal to the amount included in the corporation's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes

not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

(8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(c) In the case of life insurance companies (as defined in Section 816(a) of the Internal Revenue Code) that are organized under Indiana law, the same as "life insurance company taxable income" (as defined in Section 801 of the Internal Revenue Code), adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.

(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.

(4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add an amount equal to any deduction allowed under Section 172 or Section 810 of the Internal Revenue Code.

(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

(8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(d) In the case of insurance companies subject to tax under Section 831 of the Internal Revenue Code and organized under Indiana law, the same as "taxable income" (as defined in Section 832 of the Internal Revenue Code), adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.

(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.

(4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

(8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(e) In the case of trusts and estates, "taxable income" (as defined for trusts and estates in Section 641(b) of the Internal Revenue Code) adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the federal adjusted gross income of the estate of a victim of the September 11 terrorist attack or a trust to the extent the trust benefits a victim of the September 11 terrorist attack.

(3) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(4) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

(6) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(f) This subsection applies only to the extent that an individual paid property taxes ~~in 2004~~ that were imposed for the March 1, 2002, assessment date or the January 15, 2003, assessment date **in a taxable year that includes any part of 2004 or 2005**. The maximum amount of the deduction under subsection (a)(17) is equal to the amount determined under STEP FIVE of the following formula:

STEP ONE: Determine the amount of property taxes that the taxpayer paid after December 31, 2003, in the taxable year for property taxes imposed for the March 1, 2002, assessment date and the January 15, 2003, assessment date.

STEP TWO: For:

(A) **a taxable year that includes any part of 2004 and does not include any part of 2005**, determine the amount of property taxes that the taxpayer paid in the taxable year for the March 1, 2003, assessment date and the January 15, 2004, assessment date;

(B) **a taxable year that includes any part of 2004 and any part of 2005, determine the amount of property taxes that the taxpayer paid in the taxable year for the March 1, 2003, assessment date and the January 15, 2004, assessment date;**

(C) **a taxable year beginning January 1, 2005, and ending December 31, 2005, determine the amount of property taxes that the taxpayer paid in the taxable year for the March 1, 2004, assessment date and the January 15,**

**2005, assessment date; or**

**(D) a taxable year that includes any part of 2005 and any part of 2006, determine the amount of property taxes that the taxpayer paid for the March 1, 2004, assessment date and the January 15, 2005, assessment date in the time period spanning the two (2) taxable years:**

**(i) beginning on the first day of the immediately preceding taxable year that includes any part of 2004 and any part of 2005; and**

**(ii) ending on the final day of the taxable year.**

STEP THREE: Determine the result of the STEP ONE amount divided by the STEP TWO amount.

STEP FOUR: Multiply the STEP THREE amount by two thousand five hundred dollars (\$2,500).

STEP FIVE: Determine the sum of the STEP FOUR amount and two thousand five hundred dollars (\$2,500)."

Page 20, between lines 15 and 16, begin a new paragraph and insert:

"SECTION 23. [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)] **IC 6-3-1-3.5, as amended by this act, applies only to taxable years beginning after December 31, 2004.**"

Renumber all SECTIONS consecutively.

(Reference is to ESB 355 as printed February 22, 2006.)

AGUILERA

Motion prevailed. The bill was ordered engrossed.

### Engrossed Senate Bill 345

Representative Espich called down Engrossed Senate Bill 345 for second reading. The bill was read a second time by title.

#### HOUSE MOTION

(Amendment 345-1)

Mr. Speaker: I move that Engrossed Bill 345 be amended to read as follows:

Page 16, line 19, delete "fifteen" and insert "**forty**".

Page 16, line 20, delete "(\$15,000,000)" and insert "**(\$40,000,000)**".

Page 16, line 25, delete "\$5,875,147" and insert "**\$15,667,060**".

Page 16, line 26, delete "4,048,133" and insert "**10,795,022**".

Page 16, line 27, delete "899,880" and insert "**2,399,680**".

Page 16, line 28, delete "459,626" and insert "**1,225,670**".

Page 16, line 29, delete "1,528,899" and insert "**4,077,062**".

Page 16, line 30, delete "446,262" and insert "**1,190,030**".

Page 16, line 32, delete "1,742,053" and insert "**4,645,476**".

Page 16, line 33, delete "\$15,000,000" and insert "**\$40,000,000**".

(Reference is to ESB 345 as printed February 24, 2006.)

COCHRAN

Motion prevailed.

#### HOUSE MOTION

(Amendment 345-3)

Mr. Speaker: I move that Engrossed Senate Bill 345 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 4-31-9-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. No tax or fee, except as provided in this article, shall be assessed or collected from a permit holder by a political subdivision having the power to assess or collect a tax or fee. This section does not apply to **fees under IC 36-13** or real or personal property taxes imposed by a local taxing unit."

Page 15, between lines 23 and 24, begin a new paragraph and insert:

"SECTION 7. IC 36-13 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]:

#### ARTICLE 13. PUBLIC SERVICES USER FEES

##### Chapter 1. Definitions

Sec. 1. For purposes of this article, "agricultural real property" means:

(1) buildings and other real property improvements subject to assessment as agricultural property under the rules of the

department of local government finance; and

(2) the parcel on which the buildings and other real property improvements are located.

Sec. 2. For purposes of this article, "commercial real property" means:

(1) buildings and other real property improvements subject to assessment as commercial property under the rules of the department of local government finance; and

(2) the parcel on which the buildings and other real property improvements are located.

Sec. 3. For purposes of this article, "industrial real property" means:

(1) buildings and other real property improvements subject to assessment as industrial property under the rules of the department of local government finance; and

(2) the parcel on which the buildings and other real property improvements are located.

Sec. 4. For purposes of this article, "other residential property" means a mobile home or manufactured home not assessed as real property.

Sec. 5. For purposes of this article, "other residential real property" means:

(1) a mobile home or manufactured home assessed as real property; and

(2) the parcel on which the mobile home or manufactured home is located.

Sec. 6. For purposes of this article, "residential real property" means:

(1) buildings and other real property improvements subject to assessment as residential property under the rules of the department of local government finance; and

(2) the parcel on which the buildings and other real property improvements are located.

#### Chapter 2. Application

Sec. 1. This article applies only if the county fiscal body adopts an ordinance to apply this article in the county.

Sec. 2. Except as provided in section 3 of this chapter, the fee imposed under this article:

(1) applies to each owner of:

(A) agricultural real property;

(B) commercial real property;

(C) industrial real property;

(D) residential real property;

(E) other residential property; and

(F) other residential real property; and

(2) does not apply to a parcel of unimproved land.

Sec. 3. A fee imposed under this article does not apply to an owner referred to in section 2(1) of this chapter if any of the following applies:

(1) The property is owned by a church or religious society.

(2) The property is owned by a nonprofit organization and the property owned is exempt from ad valorem property taxes.

(3) The property is owned by a governmental entity and the property owned is exempt from ad valorem property taxes.

#### Chapter 3. Imposition and Distribution

Sec. 1. A county fiscal body may adopt an ordinance to apply this article in the county.

Sec. 2. Fees imposed under this article are treated as ad valorem property taxes for the purpose of distributions under the following:

(1) IC 6-1.1-21.

(2) IC 6-3.5.

(3) IC 6-5.5.

(4) IC 6-6-5.

(5) Any other law that computes a distribution based on the assessed value of tangible property or on the property tax levy imposed.

Sec. 3. The department of local government finance shall provide the information necessary for the department of state revenue and county auditors to make the distributions described in section 2 of this chapter.

Sec. 4. Fees imposed under this article are billed and collected in the same manner and at the same time that property taxes are

billed and collected.

Sec. 5. The county auditor shall distribute to a political subdivision in which a property subject to the fee imposed under this article is located a part of the fee collected with respect to the property that bears the same proportion to the total amount of the fee collected with respect to the property that the tax rate imposed by the political subdivision bears to the total property tax rate in the taxing district in which the property is located.

Sec. 6. The maximum property tax levy that a political subdivision may impose for a budget year under IC 6-1.1-18.5 or IC 6-1.1-19 is reduced by the amount of fees imposed by the political subdivision under section 5 of this chapter for the budget year.

Sec. 7. A political subdivision may use revenue from fee collections in the same manner that the political subdivision uses revenue from property tax collections.

#### Chapter 4. Fees

Sec. 1. (a) Subject to subsection (b), the county fiscal body that adopts an ordinance to apply the fees under this article must determine and include in the ordinance:

(1) a minimum charge for agricultural real property;

(2) a minimum charge for commercial real property;

(3) a minimum charge for industrial real property;

(4) a minimum charge for residential real property;

(5) a minimum charge for other residential property; and

(6) a minimum charge for other residential real property.

(b) A minimum charge under subsection (a) may not exceed six hundred dollars (\$600).

Sec. 2. (a) The amount of a fee under this article with respect to property that is:

(1) associated with a parcel for a calendar year; and

(2) part of a category of property referred to in subsection 1(a) of this chapter;

is the amount determined under subsection (b).

(b) The amount of the fee under subsection (a) is the greater of zero (0) or the remainder of:

(1) the minimum charge determined under section 1 of this chapter for the category of property; minus

(2) the property taxes attributable to the property for the calendar year after consideration of all property tax deductions and credits.

Sec. 3. The county fiscal body may periodically change a minimum charge determined under this chapter.

Sec. 4. (a) An initial minimum charge determined under this chapter may be established only after a public hearing at which all:

(1) property owners in the county; and

(2) others interested;

have an opportunity to be heard concerning the proposed minimum charge and the fee under this article.

(b) After introduction of the ordinance initially establishing the minimum charges determined under section 1 of this chapter but before the ordinance is finally adopted, notice of the hearing setting forth:

(1) the proposed minimum charges; and

(2) the manner in which the fee under this article is determined based on the minimum charges;

must be given by publication one (1) time each week for two (2) weeks in a newspaper of general circulation in the county. The last publication must be at least seven (7) days before the date fixed in the notice for the hearing. The hearing may be adjourned as necessary.

Sec. 5. (a) The ordinance establishing the initial minimum charges determined under section 1 of this chapter, either as:

(1) originally introduced; or

(2) amended;

must be passed and put into effect after the hearing under section 4 of this chapter.

(b) A copy of the ordinance establishing the minimum charges must be:

(1) kept on file in the office of the county auditor; and

(2) open to public inspection.

Sec. 6. A change or readjustment of a minimum charge determined under this chapter may be made in the same manner

as the minimum charge was originally established.

#### Chapter 5. Liens for Fees

Sec. 1. The fees made, assessed, or established under this article against residential real property, other residential real property, or other residential property in the county are a lien against the property.

Sec. 2. Except as provided in sections 5 and 6 of this chapter, a lien attaches at the time of the recording of the list in the county recorder's office as provided in IC 36-13-6. The lien:

- (1) is superior to and takes precedence over all other liens except the lien for taxes; and
- (2) shall be enforced under this article.

Sec. 3. If fees under this article are not paid by the due date, the fees become delinquent and a penalty of ten percent (10%) of the amount of the fees attaches to the fees. The county may recover:

- (1) the amount due;
- (2) the penalty; and
- (3) reasonable attorney's fees;

in a civil action in the name of the county.

Sec. 4. The fees under this article, together with a penalty determined under section 3 of this chapter, are collectible in the manner provided by this article.

Sec. 5. (a) A fee under this article is not enforceable as a lien against a subsequent owner of property unless the lien for the fee was recorded with the county recorder before the conveyance to the subsequent owner.

(b) If the property is conveyed before the lien can be filed, the officer of the county who is charged with the collection of the fee shall notify the person who owned the property at the time the fee became payable. The notice must inform the person that payment, including any penalty for delinquencies, is due not less than fifteen (15) days after the date of the notice. If payment is not received before one hundred eighty (180) days after the date of the notice have elapsed, the amount due may be expensed as a bad debt loss.

Sec. 6. (a) This section applies whenever a property owner has notified the county by certified mail with return receipt requested of the address to which the owner's notice is to be sent.

(b) A lien for a fee under this article does not attach against residential real property, other residential real property, or other residential property occupied by someone other than the owner unless the officer of the county who is charged with the collection of fees notifies the owner of the property after the fee has become sixty (60) days delinquent.

Sec. 7. (a) The county shall release:

- (1) liens filed with the county recorder after the recorded date of conveyance of the property; and
- (2) delinquent fees incurred by the seller;

on receipt of a verified demand in writing from the purchaser.

(b) The demand must state the following:

- (1) That the delinquent fees were not incurred by the purchaser as a user, lessee, or previous owner.
- (2) That the purchaser has not been paid by the seller for the delinquent fees.

#### Chapter 6. Enforcement of Delinquencies

Sec. 1. This chapter applies only to fees or penalties under this article that have been due and unpaid for at least ninety (90) days.

Sec. 2. The county treasurer shall enforce the payment of fees and penalties imposed under this article. The officer shall, not more than two (2) times in a year, prepare a list of the delinquent fees that are enforceable under this chapter. The list must include the following:

- (1) The name of each owner of each residential real property, other residential real property, or other residential property on which the fees have become delinquent.
- (2) The description of the property as shown by the records of the office of the county auditor.
- (3) The amount of the fees, together with the amount of the penalty for each fee.

Sec. 3. (a) The county treasurer shall record a copy of the list prepared under section 2 of this chapter in the office of the

county recorder.

(b) The county recorder shall charge a fee for recording the list in accordance with the fee schedule established in IC 36-2-7-10.

(c) After recording the list, the county treasurer shall mail to each property owner on the list a notice stating that a lien against the owner's property has been recorded.

(d) A service charge of five dollars (\$5), which is in addition to the recording fee charged under this section and the release of lien fee charged under section 5 of this chapter, shall be added to each delinquent fee that is recorded.

Sec. 4. (a) Using the lists prepared and recorded under sections 2 and 3 of this chapter:

- (1) after April 1 of the preceding year; and
- (2) before April 1 of the current year;

the county treasurer shall before June 1 of each year certify to the county auditor a list of the liens that remain unpaid for collection in the next November.

(b) The county and the officers and employees of the county are not liable for any material error in the information on a list prepared under this chapter.

Sec. 5. (a) The county treasurer shall release a recorded lien when the:

- (1) delinquent fees;
- (2) penalties;
- (3) service charges; and
- (4) recording fees;

have been fully paid.

(b) The county recorder shall charge a fee for releasing the lien in accordance with IC 36-2-7-10.

Sec. 6. (a) On receipt of the list under section 4 of this chapter, the county auditor shall add a fifteen dollar (\$15) certification fee for each property on which fees are delinquent. The certification fee is in addition to all other fees, penalties, and charges. The county auditor shall immediately enter on the tax duplicate for the municipality the:

- (1) delinquent fees;
- (2) penalties;
- (3) service charges;
- (4) recording fees; and
- (5) certification fees;

that are due not later than the due date of the next November installment of property taxes.

(b) The county treasurer shall include any unpaid charges for the:

- (1) delinquent fee;
- (2) penalty;
- (3) service charge;
- (4) recording fee; and
- (5) certification fee;

for each property owner at the time the next cycle's property tax installment is billed.

Sec. 7. After June 1 of each year, the county treasurer may not collect or accept:

- (1) delinquent fees;
- (2) penalties;
- (3) service charges;
- (4) recording fees; or
- (5) certification fees;

from property owners whose property has been certified to the county auditor.

Sec. 8. If a:

- (1) delinquent fee;
- (2) penalty;
- (3) service charge;
- (4) recording fee; or
- (5) certification fee;

is not paid, the county treasurer shall collect the unpaid money in the same way that delinquent property taxes are collected.

Sec. 9. (a) At the time of each semiannual tax settlement, the county treasurer shall certify to the county auditor all:

- (1) fees;
- (2) service charges; and
- (3) penalties;

that have been collected.

## (b) The county auditor shall:

- (1) deduct the service charges and certification fees collected by the county treasurer; and
- (2) pay to the county treasurer the remaining fees and penalties due the county.

## (c) The county treasurer shall:

- (1) retain the service charges and certification fees that have been collected; and
- (2) deposit the charges and fees in the county general fund.

## Sec. 10. (a) This section applies to a:

- (1) fee;
- (2) penalty; or
- (3) service charge;

that was not recorded before a recorded conveyance.

## (b) The:

- (1) fee;
- (2) penalty; or
- (3) service charge;

shall be removed from the tax roll for a purchaser who, in the manner prescribed by IC 36-13-5-7, files a verified demand with the county auditor.

## Chapter 7. Foreclosure of Liens

Sec. 1. A county may, as an additional or alternative remedy, foreclose a lien established by this article as a means of collection of fees, including any penalty on the fees.

Sec. 2. (a) In all actions brought to foreclose a lien under this chapter, the county is entitled to recover the following:

- (1) The amount of the fees.
- (2) Any penalty on the fees.
- (3) Reasonable attorney's fees.

(b) The court shall order that the foreclosure sale be made without relief from valuation or appraisal statutes.

Sec. 3. Except as otherwise provided by this article, the following apply in all actions to foreclose a lien under this chapter:

- (1) The laws concerning municipal public improvement assessments.
- (2) The rights, remedies, procedure, and relief granted the parties to the action."

Page 20, between lines 36 and 37, begin a new paragraph and insert:

"SECTION 13. [EFFECTIVE JULY 1, 2006] IC 36-13, as added by this act, applies only to budget years beginning after December 31, 2006."

Renumber all SECTIONS consecutively.

(Reference is to ESB 345 as printed February 24, 2006.)

AGUILERA

Upon request of Representatives Aguilera and Dobis, the Speaker ordered the roll of the House to be called. Roll Call 270: yeas 17, nays 74. Motion failed.

HOUSE MOTION  
(Amendment 345-4)

Mr. Speaker: I move that Engrossed Senate Bill 345 be amended to read as follows:

Page 6, between lines 9 and 10, begin a new line block indented and insert:

"(23) In the case of an individual who is employed by a taxpayer that claims a credit under IC 6-3.1-25-9, add the amount of the individual's eligible benefits as provided in IC 6-3.1-25-15(a) or IC 6-3.1-25-15(b)."

Page 14, between lines 22 and 23, begin a new paragraph and insert:

"SECTION 5. IC 6-3.1-25 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]:

## Chapter 25. Credit for Offering Health Benefit Plans

Sec. 1. This chapter applies to an employer that:

- (1) employs at least ten (10) full-time employees who are located in Indiana; and
- (2) does not offer coverage for health care services under a self-funded health benefit plan that complies with the federal Employee Retirement Income Security Act of 1974

(29 U.S.C. 1001 et seq.).

Sec. 2. As used in this chapter, "eligible benefits" means, with respect to an employee of a taxpayer that claims a credit under section 9 of this chapter, the total amount of health insurance premiums not included in the employee's federal adjusted gross income (as defined in Section 62 of the Internal Revenue Code) during a taxable year under the health benefit plan offered by the employer.

Sec. 3. As used in this chapter, "eligible taxpayer" means a taxpayer that did not provide health insurance to the taxpayer's employees in the taxable year immediately preceding the first taxable year for which the taxpayer claims a credit under this chapter.

Sec. 4. As used in this chapter, "full-time employee" means an employee who is normally scheduled to work at least thirty (30) hours each week.

Sec. 5. (a) As used in this chapter, "health benefit plan" means coverage for health care services provided under:

- (1) an insurance policy that provides one (1) or more of the types of insurance described in Class 1(b) or Class 2(a) of IC 27-1-5-1; or
- (2) a contract with a health maintenance organization for coverage of basic health care services under IC 27-13;

that satisfies the requirements of Section 125 of the Internal Revenue Code.

(b) The term does not include the following:

- (1) Accident only, credit, dental, vision, Medicare supplement, long term care, or disability income insurance.
- (2) Coverage issued as a supplement to liability insurance.
- (3) Automobile medical payment insurance.
- (4) A specified disease policy issued as an individual policy.
- (5) A limited benefit health insurance policy issued as an individual policy.

(6) A short term insurance plan that:

- (A) may not be renewed; and
- (B) has a duration of not more than six (6) months.

(7) A policy that provides a stipulated daily, weekly, or monthly payment to an insured during hospital confinement, without regard to the actual expense of the confinement.

(8) Worker's compensation or similar insurance.

(9) A student health insurance policy.

Sec. 6. As used in this chapter, "pass through entity" means a:

- (1) corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2);
- (2) partnership;
- (3) limited liability company; or
- (4) limited liability partnership.

Sec. 7. As used in this chapter, "state tax liability" means a taxpayer's total tax liability that is incurred under:

- (1) IC 6-3-1 through IC 6-3-7 (adjusted gross income tax);
- (2) IC 6-5.5 (financial institutions tax); and
- (3) IC 27-1-18-2 (insurance premiums tax);

as computed after the application of the credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this chapter.

Sec. 8. As used in this chapter, "taxpayer" means an individual or entity that:

- (1) has state tax liability; and
- (2) employs at least ten (10) full-time employees who are located in Indiana.

Sec. 9. (a) An eligible taxpayer that, after December 31, 2006, makes health insurance available to the eligible taxpayer's employees and their dependents through at least one (1) health benefit plan is entitled to a credit against the taxpayer's state tax liability for the first two (2) taxable years in which the taxpayer makes the health benefit plan available if the following requirements are met:

- (1) An employee's participation in the health benefit plan is at the employee's election.
- (2) If an employee chooses to participate in the health benefit plan, the employee may pay the employee's share of the cost of the plan using a wage assignment authorized under IC 22-2-6-2.

- (b) The credit allowed under this chapter equals the lesser of:
- (1) two thousand five hundred dollars (\$2,500); or
  - (2) fifty dollars (\$50) multiplied by the number of employees enrolled in the health benefit plan during the taxable year.

Sec. 10. (a) An employer may pay or provide reimbursement for all or part of the cost of a health benefit plan made available under section 9 of this chapter.

(b) An employer that pays or provides reimbursement under subsection (a) shall pay or provide reimbursement on an equal basis for all full-time employees who elect to participate in the health benefit plan.

Sec. 11. (a) If the amount determined under section 9 of this chapter for a taxpayer in a taxable year exceeds the taxpayer's state tax liability for that taxable year, the taxpayer may carry the excess over to the following taxable years. The amount of the credit carryover from a taxable year shall be reduced to the extent that the carryover is used by the taxpayer to obtain a credit under this chapter for any subsequent taxable year. A taxpayer is not entitled to a carryback.

(b) A taxpayer is not entitled to a refund of any unused credit.

Sec. 12. If a pass through entity does not have state income tax liability against which the tax credit may be applied, a shareholder or partner of the pass through entity is entitled to a tax credit equal to:

- (1) the tax credit determined for the pass through entity for the taxable year; multiplied by
- (2) the percentage of the pass through entity's distributive income to which the shareholder or partner is entitled.

Sec. 13. To receive the credit provided by this chapter, a taxpayer must claim the credit on the taxpayer's state tax return or returns in the manner prescribed by the department. The taxpayer must submit to the department all information that the department determines is necessary to calculate the credit provided by this chapter and to determine the taxpayer's eligibility for the credit.

Sec. 14. (a) A taxpayer claiming a credit under this chapter shall continue to make health insurance available to the taxpayer's employees through a health benefit plan for at least twenty-four (24) consecutive months beginning on the day after the last day of the taxable year in which the taxpayer first offers the health benefit plan.

(b) If the taxpayer terminates the health benefit plan before the expiration of the period required under subsection (a), the taxpayer shall repay the department the amount of the credit received under section 9 of this chapter.

Sec. 15. (a) An employee of a taxpayer that claims a credit under this chapter shall include in the employee's state adjusted gross income (as defined in IC 6-3-1-3.5(a)) the employee's eligible benefits for:

- (1) the first taxable year in which the taxpayer offers the health benefit plan; and
- (2) the taxable year immediately following the first taxable year in which the taxpayer offers the health benefit plan.

(b) For each taxable year following the taxable year described in subsection (a)(2), a percentage of an employee's eligible benefits are included in the employee's state adjusted gross income (as defined in IC 6-3-1-3.5(a)) as follows:

- (1) For an employee whose annual income derived from the taxpayer is forty thousand dollars (\$40,000) or less, zero percent (0%).
- (2) For an employee whose annual income derived from the taxpayer is greater than forty thousand dollars (\$40,000) and less than eighty thousand dollars (\$80,000), fifty percent (50%).
- (3) For an employee whose annual income derived from the taxpayer is eighty thousand dollars (\$80,000) or greater, one hundred percent (100%).

(c) A taxpayer that claims a credit under this chapter shall notify each of the taxpayer's employees of the amount included in the employee's state adjusted gross income (as defined in IC 6-3-1-3.5(a)) under subsection (a) at the same time the taxpayer provides the employee with the employee's W-2 federal income tax withholding statement for the taxable year."

Page 20, between lines 36 and 37, begin a new paragraph and

insert:

"SECTION 11. [EFFECTIVE JULY 1, 2006] IC 6-3-1-3.5(a)(23), as amended by this act, applies only to taxable years beginning after December 31, 2006.

SECTION 12. [EFFECTIVE JULY 1, 2006] IC 6-3.1-25, as added by this act, applies only to taxable years beginning after December 31, 2006."

Renumber all SECTIONS consecutively.

(Reference is to ESB 345 as printed February 24, 2006.)

ORENTLICHER

Representative Whetstone rose to a point of order, citing Rule 80, stating that the motion was not germane to the bill. The Speaker ruled the point was well taken and the motion was out of order.

#### APPEAL OF THE RULING OF THE CHAIR

Mr. Speaker: We hereby appeal the ruling of the Chair that Representative Orentlicher's amendment (345-4) is not germane to Engrossed Senate Bill 345.

Amendment 4 is germane to Engrossed Senate Bill 345 because both measures concern taxation.

PELATH  
ORENTLICHER

The Speaker yielded the gavel to the Speaker Pro Tempore, Representative Turner.

The question was, Shall the ruling of the Chair be sustained? Roll Call 271: yeas 50, nays 45. The ruling of the Chair was sustained.

There being no further amendments, the bill was ordered engrossed.

The Speaker Pro Tempore yielded the gavel to the Speaker.

The House recessed until the fall of the gavel.

#### RECESS

The House reconvened at 8:10 p.m. with the Speaker in the Chair.

Representatives Goodin and Ulmer were excused for the rest of the day.

#### MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Engrossed House Bills 1097, 1108, 1240, and 1395 with amendments and the same are herewith returned to the House for concurrence.

MARY C. MENDEL  
Principal Secretary of the Senate

Representative Kuzman rose to a point of order requesting a quorum call. The Speaker ordered the roll of the House to be called. Roll Call 272: 67 present. The Speaker announced a quorum is attendance.

#### ENGROSSED SENATE BILLS ON SECOND READING

##### Engrossed Senate Bill 340

Representative Borror called down Engrossed Senate Bill 340 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

##### Engrossed Senate Bill 303

Representative Duncan called down Engrossed Senate Bill 303 for second reading. The bill was read a second time by title.

HOUSE MOTION  
(Amendment 303-1)

Mr. Speaker: I move that Engrossed Senate Bill 303 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 9-20-2-2, AS AMENDED BY P.L.210-2005, SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) As used in this section, "farm vehicle loaded with a farm product" includes a truck hauling unprocessed leaf tobacco.

(b) Except for interstate highway travel, this article does not apply to the following:

(1) Machinery or equipment used in highway construction or maintenance by the Indiana department of transportation, counties, or municipalities.

(2) Implements of agriculture when used during farming operations or when constructed so that the implements can be moved without material damage to the highways.

**(3) Farm drainage machinery.**

(c) This article does not apply to firefighting apparatus owned or operated by a political subdivision or volunteer fire department (as defined in IC 36-8-12-2).

(d) Except for interstate highway travel, this article does not limit the width or height of a farm vehicle loaded with a farm product."

Renumber all SECTIONS consecutively.

(Reference is to ESB 303 as printed February 21, 2006.)

CHERRY

Motion prevailed.

HOUSE MOTION  
(Amendment 303-2)

Mr. Speaker: I move that Engrossed Senate Bill 303 be amended to read as follows:

Page 6, between lines 3 and 4, begin a new paragraph and insert:  
"SECTION 9. IC 9-24-9-5.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5.5. (a) Any male who:

(1) applies for issuance or renewal of any license listed in IC 9-24-1-1;

(2) is at least eighteen (18) years of age but less than twenty-six (26) years of age; and

(3) is required to register under 50 U.S.C. 453(a);

may authorize the bureau to register him with the Selective Service System in compliance with the requirements of the Military Selective Service Act under 50 U.S.C. 451 et seq.

(b) The application form for a driver's license or driver's license renewal shall include a box that an applicant can check to:

(1) identify the applicant as a male who is at least eighteen (18) years of age but less than twenty-six (26) years of age; and

(2) indicate the applicant's intention to authorize the bureau to submit the necessary information to the Selective Service System to register the applicant with the Selective Service System in compliance with federal law.

The bureau shall provide to an applicant registering with the Selective Service System through the bureau any registration forms required by the Selective Service System. However, the applicant may not be required to provide his Social Security number for Selective Service System registration purposes.

(c) When authorized by the applicant in conformity with this section, the bureau shall forward the necessary registration information provided by the applicant to the Selective Service System in the electronic format or another format approved by the Selective Service System.

(d) Failure of an applicant to authorize the bureau to register the applicant with the Selective Service System is not a basis for denying the applicant driving privileges."

Renumber all SECTIONS consecutively.

(Reference is to ESB 303 as printed February 21, 2006.)

OARENTLICHER

Upon request of Representatives Orentlicher and Stilwell, the Speaker ordered the roll of the House to be called. Roll Call 273: yeas 67, nays 16. Motion prevailed. The bill was ordered engrossed.

**Engrossed Senate Bill 297**

Representative Foley called down Engrossed Senate Bill 297 for

second reading. The bill was read a second time by title.

HOUSE MOTION  
(Amendment 297-1)

Mr. Speaker: I move that Engrossed Senate Bill 297 be amended to read as follows:

Page 2, line 5, after "knowingly" insert "**or intentionally**".

Page 2, line 9, after "knowingly" insert "**or intentionally**".

Page 2, line 12, after "commits" insert "**application fraud**".

Page 3, line 4, before "makes" insert "**or intentionally**".

Page 3, line 4, after "or" delete "knowingly".

Page 3, line 7, after "commits" insert "**application fraud**".

Page 3, after line 7, begin a new paragraph and insert:

"SECTION 3. IC 35-43-5-2, AS AMENDED BY P.L.45-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) A person who knowingly or intentionally:

(1) makes or utters a written instrument in such a manner that it purports to have been made:

(A) by another person;

(B) at another time;

(C) with different provisions; or

(D) by authority of one who did not give authority; or

(2) possesses more than one (1) written instrument knowing that the written instruments were made in a manner that they purport to have been made:

(A) by another person;

(B) at another time;

(C) with different provisions; or

(D) by authority of one who did not give authority;

commits counterfeiting, a Class D felony.

(b) A person who, with intent to defraud, makes, utters, or possesses a written instrument in such a manner that it purports to have been made:

(1) by another person;

(2) at another time;

(3) with different provisions; or

(4) by authority of one who did not give authority;

commits forgery, a Class C felony.

(c) This subsection applies to a person who applies for a driver's license (as defined in IC 9-13-2-48). A person who:

(1) knowingly or intentionally uses a false or fictitious name or gives a false or fictitious address in an application for a driver's license or for a renewal or a duplicate of a driver's license; or

(2) knowingly or intentionally makes a false statement or conceals a material fact or otherwise commits fraud in an application for a driver's license;

commits application fraud, a Class D felony.

(d) This subsection applies to a person who applies for a state identification card (as issued under IC 9-24-16). A person who:

(1) knowingly or intentionally uses false information in an application for an identification card or for a renewal or duplicate of an identification card; or

(2) knowingly or intentionally makes a false statement or otherwise commits fraud in an application for an identification card;

commits application fraud, a Class D felony."

(Reference is to ESB 297 as printed February 17, 2006.)

FOLEY

Motion prevailed.

HOUSE MOTION  
(Amendment 297-2)

Mr. Speaker: I move that Engrossed Senate Bill 297 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 9-24-12-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. (a) The application for renewal of:

(1) an operator's license;

(2) a motorcycle operator's license;

(3) a chauffeur's license;



- (4) a public passenger chauffeur's license; or
- (5) an identification card;

under this article may be filed not more than six (6) months before the expiration date of the license or identification card held by the applicant.

**(b) If the holder of a driver's license or a learner's permit has not renewed the driver's license or the learner's permit, the bureau shall provide notice of the expiration date of the driver's license or learner's permit to the holder of the driver's license or learner's permit. Notice under this subsection must be made:**

- (1) by first class mail to the holder's last address registered with the bureau; and**
- (2) not:**
  - (A) more than sixty (60) days; and**
  - (B) less than thirty (30) days; before the expiration date."**

Renumber all SECTIONS consecutively.

(Reference is to ESB as 297 as printed February 17, 2006.)

PIERCE

Upon request of Representatives Pierce and Dobis, the Speaker ordered the roll of the House to be called. Roll Call 274: yeas 44, nays 49. Motion failed. The bill was ordered engrossed.

### Engrossed Senate Bill 296

Representative Torr called down Engrossed Senate Bill 296 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

### Engrossed Senate Bill 284

Representative T. Brown called down Engrossed Senate Bill 284 for second reading. The bill was read a second time by title.

#### HOUSE MOTION (Amendment 284-1)

Mr. Speaker: I move that Engrossed Senate Bill 284 be amended to read as follows:

Page 2, delete lines 4 through 23.

(Reference is to ESB 284 as printed February 22, 2006.)

C. BROWN

Upon request of Representatives Espich and Friend, the Speaker ordered the roll of the House to be called. Roll Call 275: yeas 19, nays 72. Motion failed. The bill was ordered engrossed.

### Engrossed Senate Bill 153

Representative Richardson called down Engrossed Senate Bill 153 for second reading. The bill was read a second time by title.

#### HOUSE MOTION (Amendment 153-3)

Mr. Speaker: I move that Engrossed Senate Bill 153 be amended to read as follows:

Page 1, line 7, delete "or private entity".

Page 2, line 6, after "of" reset in roman "an".

Page 2, line 6, delete "a private".

Page 2, line 6, delete "or private entity".

Page 2, delete lines 40 through 42.

Page 3, delete lines 1 through 3, begin a new paragraph and insert:

**"(g) This section expires December 31, 2006.**

SECTION 2. IC 12-17-2-18.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 18.1. (a) This section applies after December 31, 2006.**

**(b) The bureau shall make the agreements necessary for the effective administration of the plan with local governmental officials within Indiana. The bureau shall contract with:**

- (1) a prosecuting attorney;**
- (2) a private attorney or private entity if the bureau determines that a reasonable contract cannot be entered into with a prosecuting attorney and the determination is approved by at least two-thirds (2/3) of the Indiana child custody and support advisory committee (established by IC 33-24-11-1); or**
- (3) a collection agency licensed under IC 25-11 to collect**

**arrears on child support orders under which collections have not been made on arrearsages for at least two (2) years; in each judicial circuit to undertake activities required to be performed under Title IV-D of the federal Social Security Act (42 U.S.C. 651), including establishment of paternity, establishment, enforcement, and modification of child support orders, activities under the Uniform Reciprocal Enforcement of Support Act (IC 31-2-1, before its repeal) or the Uniform Interstate Family Support Act (IC 31-18, or IC 31-1.5 before its repeal), and if the contract is with a prosecuting attorney, prosecutions of welfare fraud.**

**(c) The hiring of a private attorney or private entity by an agreement or a contract made under this section is not subject to the approval of the attorney general under IC 4-6-5-3. An agreement or a contract made under this section is not subject to IC 4-13-2-14.3 or IC 5-22.**

**(d) Subject to section 18.6 of this chapter, a prosecuting attorney with which the bureau contracts under subsection (b):**

- (1) may contract with a collection agency licensed under IC 25-11 to provide child support enforcement services; and**
- (2) shall contract with a collection agency licensed under IC 25-11 to collect arrearsages on child support orders under which collections have not been made on arrearsages for at least two (2) years.**

**(e) A prosecuting attorney or private attorney entering into an agreement or a contract with the bureau under this section enters into an attorney-client relationship with the state to represent the interests of the state in the effective administration of the plan and not the interests of any other person. An attorney-client relationship is not created with any other person by reason of an agreement or contract with the bureau.**

**(f) At the time that an application for child support services is made, the applicant must be informed that:**

- (1) an attorney who provides services for the child support bureau is the attorney for the state and is not providing legal representation to the applicant; and**
- (2) communications made by the applicant to the attorney and the advice given by the attorney to the applicant are not confidential communications protected by the privilege provided under IC 34-46-3-1.**

**(g) A prosecuting attorney or private attorney who contracts or agrees under this section to undertake activities required to be performed under Title IV-D is not required to mediate, resolve, or litigate a dispute between the parties relating to the amount of parenting time or parenting time credit.**

**(h) An agreement made under subsection (b) must contain requirements stipulating service levels a prosecuting attorney or private entity is expected to meet. The bureau shall disburse incentive money based on whether a prosecuting attorney or private entity meets service levels stipulated in an agreement made under subsection (b)."**

Page 4, between lines 33 and 34, begin a new paragraph and insert:

**"(i) This section expires December 31, 2006.**

SECTION 4. IC 12-17-2-18.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 18.6. (a) This section applies after December 31, 2006.**

**(b) The bureau shall establish a program to allow a prosecuting attorney with which the bureau has contracted under section 18.1 of this chapter to contract with a collection agency licensed under IC 25-11 to provide child support enforcement services.**

**(c) The bureau shall:**

- (1) establish a list of approved collection agencies with which a prosecuting attorney may contract under this section;**
- (2) establish requirements for participation in the program established under this section to assure:**
  - (A) effective administration of the plan; and**
  - (B) compliance with all federal and state statutes, regulations, and rules;**
- (3) update and review the list described in subdivision (1) and forward a copy of the updated list to each prosecuting attorney annually; and**

(4) preapprove or approve all contracts between a collection agency and a prosecuting attorney.

(d) A contract between a prosecuting attorney and a collection agency under this section must include the following provisions:

(1) A provision that records of a contractor operated child support enforcement system are subject to inspection and copying to the same extent the records would be subject to inspection and copying if the contractor were a public agency under IC 5-14-3.

(2) A provision that records that are provided by a contractor to the prosecuting attorney that relate to compliance by the contractor with the terms of the contract are subject to inspection and copying in accordance with IC 5-14-3.

(e) The bureau is not liable for any costs related to a contract entered into under this section that are disallowed for reimbursement by the federal government under the Title IV-D program of the federal Social Security Act.

(f) The bureau shall treat costs incurred by a prosecuting attorney under this section as administrative costs of the prosecuting attorney.

(g) Contracts between a collection agency licensed under IC 25-11 and the bureau or a prosecuting attorney:

(1) must:

(A) be in writing;

(B) include:

(i) all fees, charges, and costs, including administrative and application fees; and

(ii) the right of the bureau or the prosecuting attorney to cancel the contract at any time;

(C) require the collection agency, upon the request of the bureau or the prosecuting attorney, to provide the:

(i) source of each payment received for arrearage on a child support order;

(ii) form of each payment received for arrearage on a child support order;

(iii) amount and percentage that is deducted as a fee or a charge from each payment of arrearage on a child support order; and

(iv) amount of arrearage owed under a child support order; and

(D) be one (1) year renewable contracts; and

(2) may be negotiable contingency contracts in which a collection agency may not collect a fee that exceeds fifteen percent (15%) of the arrearages collected per case.

(h) A collection agency that contracts with the bureau or a prosecuting attorney under this section may, in addition to the collection of arrearages on a child support order, assess and collect from an obligor all fees, charges, costs, and other expenses as provided under the terms of the contract described in subsection (g)."

Renumber all SECTIONS consecutively.

(Reference is to ESB 153 as printed February 21, 2006.)

RICHARDSON

Motion prevailed.

#### HOUSE MOTION (Amendment 153-1)

Mr. Speaker: I move that Engrossed Senate Bill 153 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 12-14-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) After the investigation under IC 12-14-1-6, the county office shall decide the following:

(1) Whether the child is eligible for assistance under this article.

(2) The amount of assistance.

(3) The date assistance begins.

(b) The county office may not consider:

(1) money in an individual development account under IC 4-4-28 that belongs to the child or a member of the child's family;

(2) five thousand dollars (\$5,000) of equity value (as defined in

470 IAC 10.1-3-1) in one (1) motor vehicle that belongs to a member of the child's family; or

(3) a Holocaust victim's settlement payment received by the child or a member of the child's family;

when determining whether the child is eligible for assistance under this article.

(c) The division or the county office may not enter into a contract under which another person is to make eligibility determinations under this article unless the general assembly expressly authorizes the division to contract with another person for the making of the eligibility determinations.

SECTION 2. IC 12-15-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. (a) The office and the division of family and children shall formulate written protocols that specify the following:

(1) That the county offices are responsible for all eligibility determinations made under the state Medicaid program.

(2) That the office is responsible for payment of a claim made under the state Medicaid plan.

(b) The office may enter into any contract to implement the state program. However, the office or a county office may not enter into a contract under which another person is to make eligibility determinations under this article unless the general assembly expressly authorizes the division to contract with another person for the making of eligibility determinations."

Renumber all SECTIONS consecutively.

(Reference is to ESB 153 as printed February 21, 2006.)

AVERY

Representative Whetstone rose to a point of order, citing Rule 80, stating that the motion was not germane to the bill. The Speaker ruled the point was well taken and the motion was out of order.

#### APPEAL OF THE RULING OF THE CHAIR

Mr. Speaker: We hereby appeal the ruling of the Chair that Representative Avery's amendment (153-1) is not germane to Engrossed Senate Bill 153.

Amendment 1 is germane to Engrossed Senate Bill 153 because both measures concern the welfare of children.

PELATH  
AVERY

The Speaker yielded the gavel to the Speaker Pro Tempore, Representative Turner.

The question was, Shall the ruling of the Chair be sustained? Roll Call 276: yeas 50, nays 42. The ruling of the Chair was sustained.

There being no further amendments, the bill was ordered engrossed.

The Speaker Pro Tempore yielded the gavel to the Speaker.

Representative Dickinson was excused for the rest of the day.

#### Engrossed Senate Bill 132

Representative Budak called down Engrossed Senate Bill 132 for second reading. The bill was read a second time by title.

#### HOUSE MOTION (Amendment 132-1)

Mr. Speaker: I move that Engrossed Senate Bill 132 be amended to read as follows:

Page 91, between lines 23 and 24, begin a new paragraph and insert:

"SECTION 139. IC 16-37-1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) A local health department may make a charge under IC 16-20-1-27 for each certificate of birth, death, or stillbirth registration.

(b) If the local department of health makes a charge for a certificate of death under subsection (a), a one dollar (\$1) coroners continuing education fee must be added to the rate established under IC 16-20-1-27. The local department of health shall deposit any coroners continuing education fees with the county auditor within thirty (30) days after collection. The county auditor shall transfer semiannually any coroners continuing education fees to the treasurer

of state.

(c) Notwithstanding IC 16-20-1-27, a charge may not be made for furnishing a certificate of birth, death, or stillbirth registration to a person or to a member of the family of a person who needs the certificate for one (1) of the following purposes:

(1) To establish the person's age or the dependency of a member of the person's family in connection with:

(A) the person's service in the armed forces of the United States; or

(B) a death pension or disability pension of a person who is serving or has served in the armed forces of the United States.

(2) To establish or to verify the age of a child in school who desires to secure a work permit.

**(3) To establish or to verify the age of an individual who will be at least eighteen (18) years of age on or before the next general or municipal election day and who requires the issuance of a certificate of birth to obtain:**

**(A) a driver's license issued under IC 9-24-11; or**

**(B) an identification card issued under IC 9-24-16.**

**An order or ordinance adopted by a municipal corporation (as defined in IC 36-1-2-10) that would impose a fee or charge for the issuance of a certificate of birth to an individual under this subdivision is void.**

SECTION 140. IC 16-37-1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) **Except as provided in subsection (d),** the state department shall charge and collect a fee of eight dollars (\$8) for each search of the records in the division of vital records. If the requested record is found, one (1) certification of the record will be issued without charge. Additional certifications of the same record will be issued at that time for an additional fee of four dollars (\$4) for each record.

(b) The state department shall charge and collect an additional fee of eight dollars (\$8) for any amendment to a record previously filed with the division of vital records.

(c) Verification without charge will be issued to an agency of local, state, or federal government upon written request by the agency.

**(d) A search fee may not be charged or collected for a search in the division of vital records for a record concerning the birth of an individual who will be at least eighteen (18) years of age on or before the next general or municipal election day and who requires the record for the issuance of a certificate of birth that is necessary to obtain:**

**(1) a driver's license issued under IC 9-24-11; or**

**(2) an identification card issued under IC 9-24-16.**

**The fee for a certification of the record shall be as set forth in subsection (a). A rule of the state department imposing a fee or charge for a search of a birth record under this subsection is void."**

Renumber all SECTIONS consecutively.

(Reference is to ESB 132 as printed February 24, 2006.)

T. BROWN

Representative Pelath rose to a point of order, citing Rule 80, stating that the motion was not germane to the bill. The Speaker ruled the point was well taken and the motion was out of order.

There being no further amendments, the bill was ordered engrossed.

## ENGROSSED SENATE BILLS ON THIRD READING

### Engrossed Senate Bill 253

Representative Hoffman called down Engrossed Senate Bill 253 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning natural and cultural resources.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 277: yeas 93, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

### Engrossed Senate Bill 247

Representative Ruppel called down Engrossed Senate Bill 247 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

The bill was read a third time by sections and placed upon its passage.

### HOUSE MOTION (Amendment 247-6)

Mr. Speaker: I move that Engrossed Senate Bill 247 be recommitted to a Committee of One, its sponsor, with specific instructions to amend as follows:

Page 1, delete lines 1 through 10, begin a new paragraph and insert:

"SECTION 1. IC 4-13.6-3-3, AS AMENDED BY HEA 1040-2006, SECTION 65, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. (a) There is established a certification board. The following persons shall serve on the certification board:

~~(1) The state fire marshal or the state fire marshal's designee;~~

~~(2) (1) The chief engineer of the department of natural resources.~~

~~(3) (2) The director.~~

**(3) The building law compliance officer of the department of homeland security.**

(b) The board shall administer IC 4-13.6-4."

Page 2, line 5, delete "." and insert ", **including terrorist activity.**"

Page 10, line 28, delete "following" and insert "**following**".

Page 11, between lines 38 and 39, begin a new paragraph and insert:

"SECTION 16. IC 10-19-1-2.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 2.3. "Criminal intelligence information" has the meaning set forth in IC 5-2-4-1.**

Page 12, delete lines 1 through 9.

Page 13, between lines 29 and 30, begin a new paragraph and insert:

**"Sec. 1. As used in this chapter, "collect" means to solicit or receive."**

Page 13, line 30, delete "1." and insert "**2.**".

Page 13, between lines 30 and 31, begin a new line block indented and insert:

**"(1) collect;"**

Page 13, line 31, delete "(1)" and insert "**(2)**".

Page 13, line 32, delete "(2)" and insert "**(3)**".

Page 13, line 33, delete "(3)" and insert "**(4)**".

Page 13, line 34, delete "(4)" and insert "**(5)**".

Page 13, line 35, delete "(5)" and insert "**(6)**".

Page 13, line 36, before "intelligence" insert "**criminal**".

Page 13, line 37, after "agencies" insert "**and private organizations**".

Page 13, line 38, delete "." and insert "**in compliance with applicable state and federal laws and regulations, including 28 CFR 23.**"

Page 13, line 39, delete "2." and insert "**3.**".

Page 13, line 42, delete "and".

Page 14, line 1, delete "any agency of".

Page 14, line 1, delete "." and insert "**agencies; and**

**(3) private organizations;**

**subject to applicable state and federal laws and regulations, including 28 CFR 23.**

**Sec. 4. The Indiana intelligence fusion center may collect criminal intelligence information only if:**

**(1) reasonable suspicion exists that the subject of the criminal intelligence information is involved with or has knowledge of possible criminal or terrorist activity; and**

**(2) the criminal intelligence information is relevant to the criminal or terrorist activity."**

Page 14, line 27, after "that" delete "it".

Page 18, line 22, delete "[EFFECTIVE JULY 1, 2005]:" and insert

"[EFFECTIVE JULY 1, 2006]:".

Page 20, delete lines 15 through 42, begin a new paragraph and insert:

"SECTION 34. IC 22-13-2-2, AS AMENDED BY HEA 1040-2006, SECTION 358, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) The commission shall adopt rules under IC 4-22-2 and IC 22-13-2.5 to adopt a statewide code of fire safety laws and building laws.

(b) Before December 1, 2003, the commission shall adopt the most recent edition, including addenda, of the following national codes by rules under IC 4-22-2 and IC 22-13-2.5 **(before its repeal)**:

- (1) ANSI A10.4 (Safety Requirements for Personnel Hoists).
- (2) ASME A17.1 (Safety Code for Elevators and Escalators, an American National Standard).
- (3) ASME A18.1 (Safety Standard for Platform Lifts and Stairway Chairlifts, American National Standard).
- (4) ASME QE1-1 (Standard for the Qualification of Elevator Inspectors, an American National Standard).
- (5) The American Society of Civil Engineers (ASCE) Automated People Mover Standard 21.
- (6) ANSI A90.1 Safety Code for Manlifts.

(c) Before July 1, 2006, the commission shall adopt the most recent edition, including addenda, of ASME A17.3 (Safety Code for Existing Elevators and Escalators, an American National Standard) by rules under IC 4-22-2 and IC 22-13-2.5 **(before its repeal)**.

(d) The commission shall adopt the subsequent edition of each national code, including addenda, to be adopted as provided under subsections (b) and (c) within eighteen (18) months after the effective date of the subsequent edition.

(e) The commission may amend the national codes as a condition of the adoption under subsections (b), (c), and (d).

(f) To the extent that the following sections of the International Fire Code, 2000 edition, as adopted by reference in 675 IAC 22-2.3-1, apply to tents or canopies in which cooking does not occur, the commission shall suspend enforcement of the following sections of the International Fire Code, 2000 edition, until the division of fire and building safety recommends amendments to the commission under subsection (h) and the commission adopts rules under subsection (i) based on the recommendations:

- (1) Section 2406.1 (675 IAC 22-2.3-233).
- (2) Section 2406.2.
- (3) Section 2406.3.

(g) To the extent that section 2403.2 of the International Fire Code, 2000 edition, as adopted by reference in 675 IAC 22-2.3-1, applies to a tent or canopy in which there is an open flame, the commission shall suspend enforcement of section 2403.2 until the division of fire and building safety recommends amendments to section 2403.2 to the commission under subsection (h) and the commission adopts rules under subsection (i) based on the recommendations and amending section 2403.2.

(h) The division of fire and building safety shall recommend amendments to the commission to the following sections of the International Fire Code, 2000 edition, as adopted by reference in 675 IAC 22-2.3-1:

- (1) Section 2403.2.
- (2) Section 2406.1 (675 IAC 22-2.3-233).
- (3) Section 2406.2.
- (4) Section 2406.3.

(i) After receiving and considering recommendations from the division of fire and building safety under subsection (h), and using the procedure set forth in IC 4-22-2-38, the commission shall amend the following sections of the International Fire Code, 2000 edition, as adopted by reference in 675 IAC 22-2.3-1:

- (1) Section 2403.2.
- (2) Section 2406.1 (675 IAC 22-2.3-233).
- (3) Section 2406.2.
- (4) Section 2406.3."

Page 21, delete lines 1 through 36.

Page 23, line 15, delete ", at its discretion,".

Page 23, between lines 19 and 20, begin a new line blocked left and insert:

**"However, all personnel file information shall be made available to an affected member or the member's representative."**

Page 23, line 21, after "information" insert **"contained in files described in subsection (a)"**.

Page 23, delete lines 32 through 33.

Renumber all SECTIONS consecutively.

(Reference is to ESB 247 as reprinted February 22, 2006.)

RUPPEL

There being a two-thirds vote in favor of the motion, the motion prevailed.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee of One, to which was referred Engrossed Senate Bill 247, begs leave to report that said bill has been amended as directed.

RUPPEL

Report adopted.

The question then was, Shall the bill pass?

Roll Call 278: yeas 84, nays 6. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

#### Engrossed Senate Bill 246

Representative Foley called down Engrossed Senate Bill 246 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 279: yeas 93, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

#### Engrossed Senate Bill 236

Representative Friend called down Engrossed Senate Bill 236 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 280: yeas 91, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

#### Engrossed Senate Bill 235

Representative Duncan called down Engrossed Senate Bill 235 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles and to make an appropriation.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 281: yeas 90, nays 2. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

#### Engrossed Senate Bill 232

Representative Foley called down Engrossed Senate Bill 232 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 282: yeas 91, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill.

## RESOLUTIONS ON FIRST READING

### House Concurrent Resolution 54

Representative Budak introduced House Concurrent Resolution 54:

A CONCURRENT RESOLUTION recognizing the need for protection of our environmental and economic resources.

*Whereas, The Great Lakes are a tremendous asset to Indiana as an environmental and economic resource, both as the world's largest body of fresh water and as a crucial international shipping channel;*

*Whereas, Aquatic invasive species have caused significant damage to native environments and industrial operations in the Great Lakes and around the world;*

*Whereas, Indiana ranks 14th in the nation for waterborne shipping with nearly 70 million tons of maritime cargo per year, and the state's Lake Michigan ports provide Indiana farmers, steel mills, and manufacturers with access to foreign markets through the Great Lakes/St. Lawrence Seaway;*

*Whereas, Current federal laws governing the introduction of aquatic invasive species into United States waters via ballast water of ocean-going ships and other sources are inadequate; and*

*Whereas, There is currently no nationally accepted standard for ballast water quality or any approved ballast treatment technologies available to ship operators: Therefore,*

*Be it resolved by the House of Representatives  
of the General Assembly of the State of Indiana,  
the Senate concurring:*

SECTION 1. That the Indiana General Assembly has a great concern for the protection of its environmental and economic resources.

SECTION 2. That the Indiana General Assembly urges the United States Congress to acknowledge the national urgency of this problem and move quickly to enact federal legislation to establish a strong ballast water regulatory program sufficient to prevent future introduction of aquatic invasive species into all United States waters.

SECTION 3. That the Indiana General Assembly declares its support for the efforts of the United States Coast Guard and the International Maritime Organization to put in place an international ballast water treatment and regulatory program.

SECTION 4. That the Indiana General Assembly declares its support for the "Great Ships Initiative," a research and development project funded jointly by the Indiana Port Commission and other Great Lakes ports, the U.S. Department of Transportation, the National Fish and Wildlife Foundation, and other federal agencies, with the goal of accelerating the development and availability of ballast water treatment technology.

The resolution was read a first time and referred to the Committee on Rules and Legislative Procedures.

### House Concurrent Resolution 55

Representative Mays introduced House Concurrent Resolution 55:

A CONCURRENT RESOLUTION urging the legislative council to assign to the appropriate committee the topic of department of child services caseworkers carrying nonlethal weapons.

*Whereas, Department of child services caseworkers are often placed in dangerous, unsupervised situations and must be ready to make life or death decisions in the field; and*

*Whereas, In order to protect both the caseworkers and the children they are protecting, it is necessary that the issue of carrying nonlethal weapons and the training necessary to use these weapons be studied more fully: Therefore,*

*Be it resolved by the House of Representatives  
of the General Assembly of the State of Indiana,  
the Senate concurring:*

SECTION 1. That the legislative council is urged to assign to the appropriate committee the topic of department of child services caseworkers carrying nonlethal weapons.

SECTION 2. That the committee shall operate under the direction of the legislative council and that the committee shall issue a final report when directed to do so by the council.

The resolution was read a first time and referred to the Committee on Rules and Legislative Procedures.

### House Concurrent Resolution 56

Representative Woodruff introduced House Concurrent Resolution 56:

A CONCURRENT RESOLUTION urging the Indiana Department of Transportation to rename the bridge on State Road 241 over Kessinger Ditch in Knox County the Bud Reitmeyer Bridge.

*Whereas, Bud Reitmeyer was born on September 6, 1937, in Knox County, Indiana, and lived there until his death in July 2004;*

*Whereas, Bud Reitmeyer became interested in bridge construction in 1957 when he began working with one of Indiana's largest bridge contractors;*

*Whereas, Although he began as an office assistant, Bud Reitmeyer was quickly promoted to office manager and then to project manager and helped to build and manage several projects on the new interstate highway system that was being built in southern Indiana;*

*Whereas, Upon the death of the company founder in 1973, Bud Reitmeyer was named president;*

*Whereas, The name of Bud Reitmeyer can be linked to the construction, repair, and rehabilitation of more than 800 bridges in Indiana and Illinois;*

*Whereas, Bud Reitmeyer always held a special spot in his heart for the bridges of Knox County, having helped to build and repair more than 125 bridges;*

*Whereas, Bud Reitmeyer was the only man to hold two terms as president of Indiana Constructors Inc., the state's Highway Contractors Association, and received both the prestigious Sir Award for outstanding service to this organization and the Presidents' Cup Award;*

*Whereas, Bud Reitmeyer was also active in the American Road and Transportation Builders Association and many other Knox County organizations; and*

*Whereas, There could be no better way to honor Bud Reitmeyer than to place his name on a bridge: Therefore,*

*Be it resolved by the House of Representatives  
of the General Assembly of the State of Indiana,  
the Senate concurring:*

SECTION 1. That the Indiana General Assembly can find no better way to honor the memory of Bud Reitmeyer than to urge the Indiana Department of Transportation to rename the bridge on State Road 241 over Kessinger Ditch in Knox County the Bud Reitmeyer Bridge.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to the family of Bud Reitmeyer and the commissioner of the Indiana department of transportation.

The resolution was read a first time and referred to the Committee on Rules and Legislative Procedures.

### House Concurrent Resolution 57

Representative Burton introduced House Concurrent Resolution 57:

A CONCURRENT RESOLUTION urging the establishment of an interim study committee on abstract and title insurance rates.

*Whereas, In order to ensure that Hoosier consumers are fully protected, it behooves the state of Indiana to determine whether abstract and title insurance rates should be regulated by the department of insurance: Therefore,*

*Be it resolved by the House of Representatives  
of the General Assembly of the State of Indiana,  
the Senate concurring:*

SECTION 1. That the legislative council is urged to establish a committee to study abstract and title insurance rates.

SECTION 2. That the committee, if established, shall operate under the direction of the legislative council and that the committee shall issue a final report when directed to do so by the council.

The resolution was read a first time and referred to the Committee on Rules and Legislative Procedures.

### House Concurrent Resolution 58

Representative Buck introduced House Concurrent Resolution 58:

A CONCURRENT RESOLUTION urging the Indiana Department of Transportation to rename State Road 28 from US 31 east through Tipton, Indiana, the Richard Regnier Memorial Highway.

*Whereas, Richard Regnier served in the Indiana House of Representatives from 1981 to 1986;*

*Whereas, While in the Indiana House of Representatives, Richard Regnier served Hoosiers living in Carroll, Clinton, Hamilton, Howard, and Tipton Counties;*

*Whereas, Richard Regnier was born on September 3, 1929, in Huntington and moved to Tipton in 1937;*

*Whereas, Richard Regnier graduated from Tipton High School, received a Bachelor of Arts degree from Wabash College, attended Notre Dame Law School, and received a Doctor of Juris Prudence from Indiana University;*

*Whereas, Richard Regnier was very active in the Republican party, serving as the Tipton County Republican Committee Chairman from 1966 to 1974;*

*Whereas, In addition to his responsibilities as a legislator and attorney, Richard Regnier was a Freemason and a member of the county and state bar associations, Rotary Club, Chamber of Commerce, and Phi Kappa Psi; and*

*Whereas, Richard Regnier was a dedicated family man and public servant who spent countless hours serving the citizens of Tipton County and the entire state: Therefore,*

*Be it resolved by the House of Representatives of the General Assembly of the State of Indiana, the Senate concurring:*

SECTION 1. That the Indiana General Assembly wishes to remember Richard Regnier for his years of dedicated service to the people of Indiana.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to the family of Richard Regnier and the commissioner of the Indiana Department of Transportation.

The resolution was read a first time and referred to the Committee on Rules and Legislative Procedures.

### House Resolution 31

Representative Woodruff introduced House Resolution 31:

A HOUSE RESOLUTION encouraging the President of the United States, the Indiana United States Congressional Delegation, and the Governor of the State of Indiana to make it a priority to advance the commitment to community integration and personal security for individuals with mental retardation or other developmental disabilities by ensuring a stable, high quality, direct support workforce.

*Whereas, There are more than 15,000 Indiana citizens with mental retardation or other developmental disabilities receiving services and approximately 15,000 additional Indiana citizens with mental retardation or other developmental disabilities waiting to receive services;*

*Whereas, Individuals with developmental disabilities include those with mental retardation, autism, cerebral palsy, Down syndrome, epilepsy, and other related conditions;*

*Whereas, Individuals with mental retardation or other developmental disabilities have substantial limitations on their functional capacities, including limitations in three or more of the areas of self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and economic self-sufficiency, as well as the continuous need for individually planned and coordinated services;*

*Whereas, For the past two decades individuals with mental retardation or other developmental disabilities and their families have increasingly expressed their desire to live and work in their*

*communities, joining the mainstream of American life;*

*Whereas, The Supreme Court, in its Olmstead decision, affirmed the right of individuals with mental retardation or other developmental disabilities to receive community-based services as an alternative to institutional care;*

*Whereas, The demand for community supports and services is rapidly growing, as States comply with the Olmstead decision and continue to move more individuals from institutions into the community;*

*Whereas, The demand will also continue to grow as family caregivers age, individuals with mental retardation or other developmental disabilities live longer, waiting lists grow, and services expand;*

*Whereas, Families and private providers that employ direct support professionals deliver the majority of supports and services for individuals with mental retardation or other developmental disabilities in the community;*

*Whereas, Direct support professionals provide a wide range of supportive services to individuals with mental retardation or other developmental disabilities on a day-to-day basis, including habilitation, health needs, personal care and hygiene, employment, transportation, recreation, and housekeeping and other home management-related supports and services so that these individuals can live and work in their communities;*

*Whereas, Direct support professionals generally assist individuals with mental retardation or other developmental disabilities to lead self-directed family, community, and social lives;*

*Whereas, Private providers and the individuals for whom they provide supports and services are in jeopardy as a result of the growing crisis in recruiting and retaining a direct support workforce;*

*Whereas, Providers of supports and services to individuals with mental retardation or other developmental disabilities typically draw from a labor market that competes with other entry-level jobs that provide less physically and emotionally demanding work, and higher pay and other benefits, and therefore these direct support jobs are not currently competitive in today's labor market;*

*Whereas, Annually national industry turnover rates for direct support workers range from 40 to 75 percent;*

*Whereas, High rates of employee vacancies and turnover threaten the ability of providers to achieve their core mission of providing safe and high-quality supports to individuals with mental retardation or other developmental disabilities;*

*Whereas, Direct support staff turnover is emotionally difficult for the individuals being served;*

*Whereas, many parents are becoming increasingly afraid that there will be no one available to take care of their sons and daughters with mental retardation or other developmental disabilities who are living in the community;*

*Whereas, This workforce shortage is the most significant barrier to implementing the Olmstead decision and undermines the expansion of community integration as called for by President Bush's New Freedom Initiative, placing the community support infrastructure at risk; and*

*Whereas, The Indiana Association of Rehabilitation Facilities is committed to supporting the provision of safe and high-quality supports to individuals with mental retardation or other developmental disabilities who benefit from community based services for the developmentally disabled through recognition of the quality of care provided by the direct support staff who deliver those services in community-based settings: Therefore,*

*Be it resolved by the House of Representatives of the General Assembly of the State of Indiana:*

SECTION 1. The Indiana House of Representative does hereby resolve that Indiana recognizes that building a stable, well-trained direct support workforce to provide supports and services to individuals with mental retardation and other developmental disabilities is important in advancing Indiana's commitment to community integration for those individuals and to personal security for them and their families.

SECTION 2. Be it further resolved, that the Indiana House of Representatives seeks to encourage this by taking advantage of all resources, both federal and state, for developing and expanding career options and opportunities to meet this workforce crisis of direct support professionals in Indiana.

SECTION 3. The Clerk of the Indiana House of Representatives shall transmit a copy of this resolution to President George W. Bush, every member of the Indiana United States Congressional Delegation, and Governor Mitchell E. Daniels.

The resolution was read a first time and referred to the Committee on Rules and Legislative Procedures.

### House Resolution 32

Representative Ruppel introduced House Resolution 32:

A HOUSE RESOLUTION urging the legislative council to assign to the appropriate committee the issue of homeland security related to ports, freight yards, and rail yards.

*Whereas, With the increase of terrorist activity throughout the world and the threat of additional terror attacks on United States soil, it becomes vital to be fully aware of all possible dangers that exist at all ports of entry into the United States; and*

*Whereas, Additionally, terrorists could create mass confusion and great loss of life if they were to strike the nation's freight and rail yards: Therefore,*

*Be it resolved by the House of Representatives of the General Assembly of the State of Indiana:*

SECTION 1. That the legislative council is urged to assign to the appropriate committee the issue of homeland security related to ports, freight yards, and rail yards.

SECTION 2. That the committee shall operate under the direction of the legislative council and that the committee shall issue a final report when directed to do so by the council.

The resolution was read a first time and referred to the Committee on Rules and Legislative Procedures.

### House Resolution 33

Representative Koch introduced House Resolution 33:

A HOUSE RESOLUTION in support of the United States remaining a leader in space exploration and development.

*Whereas, Since its inception in 1958, the National Aeronautics and Space Administration (NASA) has accomplished many significant scientific and technological goals and advanced humankind's knowledge of the Earth and the universe;*

*Whereas, NASA has improved the quality and extended the lives of citizens not only within the United States, but throughout the world, by the development of technologies including, but not limited to, image processing in CAT Scanners and MRI Machines, kidney dialysis, programmable heart pacemakers, fetal heart monitors, and surgical probes to treat brain tumors;*

*Whereas, NASA employs more than 18,000 civil service employees and awarded over \$13 billion in contracts in fiscal year 2004 with both the private sector and academia in support of NASA programs;*

*Whereas, NASA supports space-related activities in all 50 states through its Space Grant Consortia, Explorer Schools, Educator Resource Center Networks, and EPSCoR program;*

*Whereas, The desire to explore is part of America's character, and history has shown that space exploration benefits all humankind through new technologies for everyday application, new jobs across the entire economic enterprise, economic contributions through new markets and commercial products, education and inspiration, United States leadership, increased security, and legacy for future generations;*

*Whereas, A Space Exploration Vision has recently been articulated to affirm the United States' commitment to human and robotic space exploration and to give NASA a new focus and clear objectives, including long-term human and robotic programs to explore the solar system, and a return to the moon that will ultimately enable future exploration of Mars and other destinations;*

*Whereas, The Space Exploration Vision has the potential to drive innovations, development, and advancement in the aerospace and other high technology industries in Indiana and in benefit of our constituents; and*

*Whereas, Funding for NASA both directly and indirectly benefits Indiana, our constituents, and the aerospace industry nationally: Therefore,*

*Be it resolved by the House of Representatives of the General Assembly of the State of Indiana:*

SECTION 1. That the members of the Indiana House of Representatives, the Senate concurring, honor the National Aeronautics and Space Administration (NASA), and recognize its efforts and advancements in aerospace.

SECTION 2. That the Indiana House of Representatives supports the United States remaining a leader in space exploration and development.

SECTION 3. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to NASA.

The resolution was read a first time and referred to the Committee on Rules and Legislative Procedures.

### House Resolution 34

Representatives Crawford, Yount, Thomas, Porter, C. Brown, Mays, Summers, Dickinson, V. Smith, and Aguilera introduced House Resolution 34:

A HOUSE RESOLUTION urging Hoosiers to be aware of the dangers of diabetes.

*Whereas, Diabetes is a disease where the body does not produce or properly use insulin;*

*Whereas, Insulin is a hormone needed to convert sugar, starches, and other food into energy that your body needs daily;*

*Whereas, The cause of diabetes is unknown, although both genetics and environmental factors such as obesity and lack of exercise seem to play a role;*

*Whereas, There are 20.8 million people, 7 percent of the population of the United States, that have diabetes; 6.2 million are unaware that they have the disease;*

*Whereas, Almost 3 million African-Americans have diabetes and are twice as likely as non-Hispanic whites to have diabetes;*

*Whereas, African-Americans have a 114 percent higher diabetes death rate nationally than whites; in Indiana the death rate is 59% higher than whites; and*

*Whereas, Diabetes is a disease that can be prevented or kept in check through good nutrition and regular physical activity: Therefore,*

*Be it resolved by the House of Representatives of the General Assembly of the State of Indiana:*

SECTION 1. That the Indiana House of Representatives reminds the citizens of Indiana that to prevent and cure diabetes and improve the lives of all people affected by the disease, we must all be aware of the causes and the steps we can take to make sure that our loved ones are not affected by this disease.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to the American Diabetes Association.

The resolution was read a first time and referred to the Committee on Rules and Legislative Procedures.

### House Resolution 35

Representative Borders introduced House Resolution 35:

A HOUSE RESOLUTION to urge the Congress of the United States to give due consideration to the readiness of the Republic of China on Taiwan for membership in the United Nations.

*Whereas, The Republic of China on Taiwan ("Taiwan") has established a democratic, multiparty political system, and its show of diplomacy aimed at national unification demonstrates its progressive spirit as a government and a people. Inclusion of Taiwan in the*



*United Nations would only further the universality of this essential global forum;*

*Whereas, Already having provided many developing nations with financial assistance, as well as overseas aid, training, and disaster relief, Taiwan has amply illustrated its concern for the welfare of the world; and*

*Whereas, The government of Taiwan has accepted the obligations contained in the United Nations Charter and agrees to promote international peace and security. The fundamental right of the 21,000,000 people who comprise Taiwan to be partners in the community of nations should no longer be denied: Therefore,*

*Be it resolved by the House of Representatives of the General Assembly of the State of Indiana:*

SECTION 1. That the Indiana House of Representatives supports the membership of the Republic of China on Taiwan in the United Nations and urges due consideration by the Congress of the United States.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to the President and Secretary of the United States Senate, the Speaker and Clerk of the United States House of Representatives, Indiana's Senators and Representatives in Congress, and the United Nations General Assembly.

The resolution was read a first time and referred to the Committee on Rules and Legislative Procedures.

### House Resolution 36

Representative Borders introduced House Resolution 36:

A HOUSE RESOLUTION to support a free trade agreement between the Republic of China on Taiwan and the United States.

*Whereas, The Republic of China on Taiwan ("Taiwan") and the United States enjoy one of the most important economic and strategic international relationships that exist today;*

*Whereas, Together, Taiwan and the United States promote a shared belief in freedom, democracy, and market principles;*

*Whereas, The level of mutual investment between Taiwan and the United States is quite high;*

*Whereas, Streamlined foreign investment procedures developed under a free trade agreement between Taiwan and the United States would create new business opportunities and new jobs;*

*Whereas, A free trade agreement between Taiwan and the United States would encourage greater innovations and manufacturing efficiencies by stimulating joint technological development, practical applications, and new cooperative ventures;*

*Whereas, A recent study by the United States International Trade Commission supports the negotiation of a free trade agreement between Taiwan and the United States; and*

*Whereas, A free trade agreement between Taiwan and the United States would build on the existing strong relations between Taiwan and the United States to simultaneously boost Taiwan's security and democracy and serve the broader interest of the United States in the Asia-Pacific region:*

*Be it resolved by the House of Representatives of the General Assembly of the State of Indiana:*

SECTION 1. That the Indiana House of Representatives supports the negotiation of free trade agreement between the Republic of China on Taiwan and the United States.

SECTION 2. That the Principal Clerk of the Indiana House of Representatives shall transmit a copy of this resolution to the Taipei Economic and Cultural Office in Chicago, Illinois.

The resolution was read a first time and referred to the Committee on Rules and Legislative Procedures.

### House Resolution 37

Representative Borders introduced House Resolution 37:

A HOUSE RESOLUTION to commend the Republic of China on Taiwan on its contributions to promote world health.

*Whereas, Good health is essential to every citizen of the world and access to the highest standards of health information and services is necessary to improve public health;*

*Whereas, The World Health Organization (WHO) set forth in the first chapter of its charter the objective of attaining the highest possible level of health for all people;*

*Whereas, The Republic of China on Taiwan's ("Taiwan") achievements in the field of health are substantial, including one of the highest life expectance levels in Asia, maternal and infant mortality rates comparable to those of western countries, and the eradication of such infectious diseases as cholera, smallpox, and the plague; moreover, it was the first Asian nation to eradicate polio and provide children with hepatitis B vaccinations;*

*Whereas, The United States Center for Disease Control and Prevention and its Taiwanese counterpart have enjoyed close collaboration on a wide range of public health issues;*

*Whereas, In recent years, Taiwan has expressed a willingness to assist financially and technically in international health activities supported by the WHO; and*

*Whereas, Direct, unobstructed participation in international health forums and programs is critical to limit the spread of various infectious diseases and achieve world health: Therefore,*

*Be it resolved by the House of Representatives of the General Assembly of the State of Indiana:*

SECTION 1. That the Indiana House of Representatives commends the efforts of the Republic of China on Taiwan in support of world health and extends its support for the Republic of China on Taiwan's participation in the World Health Organization.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to the governing authority of the World Health Organization and to the Taipei Economic and Cultural Office in Chicago, Illinois.

The resolution was read a first time and referred to the Committee on Rules and Legislative Procedures.

### House Resolution 38

Representative Burton introduced House Resolution 38:

A HOUSE RESOLUTION to urge the department of transportation to rename the section of Interstate Highway 65 running through Johnson County the Pearl Harbor Memorial Highway.

*Whereas, It is important and fitting for our society to recognize and honor the contributions of those citizens who have served this nation in times of war;*

*Whereas, The December 7, 1941 attack on Pearl Harbor was a devastating attack on our nation's homeland that cost the lives of more than 2,000 American civilians, soldiers, sailors, and marines;*

*Whereas, As the Pearl Harbor Memorial Highway, Interstate 65 throughout Johnson County could stand as a tribute to those heroic men and women who gave their lives in defense of the United States of America and the freedom of its citizens; and*

*Whereas, In these times of danger throughout America, it is vital to remember the bravery of those citizens who made the ultimate sacrifice for their country and to ensure that all Americans will be ever vigilant so that tragedies like the attack on Pearl Harbor do not happen again: Therefore,*

*Be it resolved by the House of Representatives of the General Assembly of the State of Indiana:*

SECTION 1. That the Indiana House of Representatives urges the Indiana Department of Transportation to rename the part of Interstate Highway 65 that runs through Johnson County the Pearl Harbor Memorial Highway.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to the Commissioner of the Indiana Department of Transportation.

The resolution was read a first time and referred to the Committee on Rules and Legislative Procedures.



**Senate Concurrent Resolution 25**

The Speaker handed down Senate Concurrent Resolution 25, sponsored by Representatives Gutwein, Ayres, and Budak:

A CONCURRENT RESOLUTION urging the Indiana Department of Transportation to rename State Road 10 between Wheatfield and Demotte in honor of Trooper Scott A. Patrick.

*Whereas, Scott A. Patrick was born September 12, 1975, to Ron and Sandy Patrick;*

*Whereas, Scott grew up in the Wheatfield area and graduated from Kankakee Valley High School with an academic honors diploma;*

*Whereas, Scott then attended the University of Southern Indiana (USI) on an academic and carpenter's scholarship;*

*Whereas, While attending USI, Scott was a founding member of the Alpha Sigma Phi fraternity and excelled in sports as a starter for the rugby team and a participant in the intramural program;*

*Whereas, While attending USI, Scott met Melissa Clark, whom he married in July 2000;*

*Whereas, In January 2000, Scott began his career as an Indiana State Police Trooper, starting at the academy on January 23 and graduating on June 23;*

*Whereas, Upon graduation, Scott was assigned to the Lowell Post and he and Melissa moved to Valparaiso. Scott loved his job and strove to be the best trooper he could be;*

*Whereas, Scott was very committed to his family. Just prior to his death, Scott had learned that he was going to become a father and he beamed with pride every time someone mentioned fatherhood;*

*Whereas, Scott's child will never know the wonderful man who was his father because Scott gave his life protecting the citizens of Indiana; and*

*Whereas, Scott was a unique individual who touched the lives of everyone he came in contact with and his death leaves an enormous void in the lives of many people: Therefore,*

*Be it resolved by the Senate  
of the General Assembly of the State of Indiana,  
the House of Representatives concurring:*

SECTION 1. That the Indiana General Assembly wishes to express its deepest sympathy to the family of Trooper Scott A. Patrick and urges the Indiana Department of Transportation to rename State Road 10 between Wheatfield and Demotte in honor of Trooper Scott A. Patrick.

SECTION 2. The Secretary of the Senate is hereby directed to transmit copies of this resolution to Scott's wife, Melissa; his parents, Ron and Sandy; his brothers, Jamie and Sean; and his sister, Dawn.

The resolution was read a first time and referred to the Committee on Rules and Legislative Procedures.

**OTHER BUSINESS ON THE SPEAKER'S TABLE****HOUSE MOTION**

Mr. Speaker: I move that House Rule 117.2 be suspended on February 28, 2006, so that a motion to amend a bill on second reading is eligible if it is time stamped at least one hour prior to the convening of the session.

RUPPEL

The motion, having been seconded by a constitutional majority and carried by a two-thirds vote of the members, prevailed.

**HOUSE MOTION**

Mr. Speaker: I move that when we do adjourn, we adjourn until Tuesday, February 28, 2006 at 10:00 a.m.

RUPPEL

Motion prevailed.

**HOUSE MOTION**

Mr. Speaker: I move that House Rule 106.1 be suspended for the purpose of adding more than three cosponsors and that Representative

Duncan be added as cosponsor of Engrossed Senate Bill 54.

WOODRUFF

The motion, having been seconded by a constitutional majority and carried by a two-thirds vote of the members, prevailed.

**HOUSE MOTION**

Mr. Speaker: I move that House Rule 106.1 be suspended for the purpose of adding more than three cosponsors and that Representatives Thomas and Dvorak be added as cosponsors of Engrossed Senate Bill 84.

FOLEY

The motion, having been seconded by a constitutional majority and carried by a two-thirds vote of the members, prevailed.

**HOUSE MOTION**

Mr. Speaker: I move that House Rule 106.1 be suspended for the purpose of adding more than three cosponsors and that Representative Thomas be added as cosponsor of Engrossed Senate Bill 246.

FOLEY

The motion, having been seconded by a constitutional majority and carried by a two-thirds vote of the members, prevailed.

**HOUSE MOTION**

Mr. Speaker: I move that House Rule 106.1 be suspended for the purpose of adding more than three cosponsors and that Representatives Duncan and Crouch be added as cosponsors of Engrossed Senate Bill 283.

BISCHOFF

The motion, having been seconded by a constitutional majority and carried by a two-thirds vote of the members, prevailed.

**HOUSE MOTION**

Mr. Speaker: I move that House Rule 106.1 be suspended for the purpose of adding more than three cosponsors and that Representatives Budak and Hinkle be added as cosponsors of Engrossed Senate Bill 314.

FRIEND

The motion, having been seconded by a constitutional majority and carried by a two-thirds vote of the members, prevailed.

**HOUSE MOTION**

Mr. Speaker: I move that Representative Thomas be added as cosponsor of Engrossed Senate Bill 332.

BUELL

Motion prevailed.

**HOUSE MOTION**

Mr. Speaker: I move that Representative Thomas be added as cosponsor of Engrossed Senate Bill 342.

MESSER

Motion prevailed.

**HOUSE MOTION**

Mr. Speaker: I move that Representative Reske be removed as cosponsor of Engrossed Senate Bill 359.

MESSER

Motion prevailed.

On the motion of Representative Kersey, the House adjourned at 10:10 p.m., this twenty-seventh day of February, 2006, until Tuesday, February 28, 2006, at 10:00 a.m.

BRIAN C. BOSMA

Speaker of the House of Representatives

M. CAROLINE SPOTTS

Principal Clerk of the House of Representatives